

61

may 1960
general
and legal

européan
broadcasting union



e.b.u.
review

sound and television broadcasting news

THE E.B.U. REVIEW

which appears in separate English and French editions, consists of two parts:

Part A : Technical

published in February, April, June, August, October and December.

Part B : General and Legal

published in January, March, May, July, September and November.

Part A is published by the
Technical Centre of the E.B.U., 32, avenue Albert Lancaster, Brussels, Belgium.

Part B is published by the
Administrative Office of the E.B.U., 1, rue de Varembé, Geneva, Switzerland.

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SALE AND SUBSCRIPTION TERMS

Part A : Single issue - 30 Belgian francs ; annual subscription - 150 Belgian francs (6 issues).

Part B : Single issue - 3 Swiss francs ; annual subscription - 15 Swiss francs (6 issues).

Parts A and B : Annual subscription to both parts (12 issues) - 300 Belgian francs or 27 Swiss francs.

These prices include postage by surface-mail. A discount is allowed to recognised booksellers.

**

Subscription orders should be sent :

For **Part A** :

to the Technical Centre, Brussels, and paid into postal cheque account (CCP) N° 729.87 - UER, Centre Technique, Compte spécial, Brussels, or into the EBU account N° 560.743 at the Banque de la Société Générale de Belgique, Agence Vivier d'Oie, Brussels 18.

For **Part B** :

to the Administrative Office, Geneva, and paid into postal cheque account (CCP) N° 1.2969, Geneva, or into the EBU account at the Société de Banque Suisse, Geneva.

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E. B. U. REVIEW

PART B - GENERAL AND LEGAL

PUBLISHED BI-MONTHLY

by the

ADMINISTRATIVE OFFICE OF THE EUROPEAN BROADCASTING UNION

Editorial and Publishing Office : 1, rue de Varembé, Geneva (Switzerland)

Telex : 22 230

Telegrams : Uniradio Geneva

Telephone : 33 74 60

No. 61 - May 1960

PRICE : 3 Swiss francs

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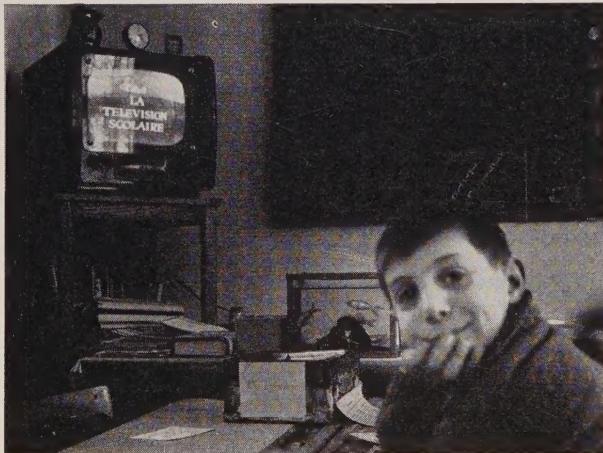
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GENERAL SECTION

THE PRESENT POSITION OF SCHOOL TELEVISION IN EUROPE

by Professor HENRI DIEUZEIDE

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(Photo IPN — Suquet-Alard)

The Paradoxes of School Television

If television sometimes presents financial interests and public authorities with the paradoxical image of a powerful industrial concentration whose sole aim is to transmit pictures over the air, does school television itself not seem to be yet another paradox embedded in the heart of the first?

1. When a television service broadcasts programmes to schools, it is in fact trying to reach a minority audience by broadcasting at times of the day when viewing is limited (i.e. the morning or afternoon).

But in Europe, the television organisations which provide a national service (operating more or less under the direct control of the public authorities) are public utility undertakings whose job is to serve first and foremost the majority of the licence-holders. Consequently, these organisations are on principle somewhat reluctant to increase the number of programmes for minority audiences.

Nevertheless, it is worth noting that in no country where programmes have been broadcast to schools has any protest been made by the general public (either organised or spontaneous).

Besides, the production of school television broadcasts differs considerably from the usual type of production: programmes have to be rigorously planned over very long periods (generally a year). In addition, programming is based on the specific needs of the audience to which it is addressed rather than on the visual resources actually available. In the same way, the preparation of the broadcasts, and sometimes even the presentation, is handed over to teachers versed in the techniques of visual expression. The actual production of these broadcasts demands very thorough and very costly preparation, for although they are generally simple in appearance such broadcasts require exceptional perfection, precision and "finish".

Indeed, another paradoxical feature of school television is the fact that it is addressed to a hypercritical audience, none of whom—the teaching staff (who consider that they are the equals of the producer) or the school children (who are without mercy)—will tolerate any weakness, even on the material side. Curiously enough, the producers, feeling themselves under the constraint of exceptional strictness and perfection, often bestow upon their broadcasts the characteristics of a demonstration in intellectual or manual virtuosity calculated to convince their colleagues but often at the expense of the message to be conveyed to the pupils.

On the other hand, the production of school television broadcasts is generally carried out in close contact with those who use the broadcasts, and this contact is often permanent and usually effective. Thus, by collecting ideas, suggestions, and criticisms, and by giving the finest teachers the chance to address their colleagues, school television is laying the foundations of an experiment in cooperative television, whose importance extends far beyond the scholastic field.

2. But school television is also something of a paradox *in teaching itself*, because it has been given the task of transforming and modernising teaching practice without making any radical changes to its structure.

It is no secret that education in Europe is passing through a critical phase. The demographic expansion associated with the rise in school attendances and the raising of the school-leaving age is making the recruitment of teachers increasingly difficult and slowing down the much-needed modernisation of the whole educational system and equipment, especially in the field of science.

Can television provide a solution on the technical as well as the educational plane to the problems that have arisen in teaching as a result of technical progress itself? It requires a great deal of serious thought to be able to define the type of school television that will take strict account of the real needs of the teaching profession in the various countries and the actual facilities it has to offer in order to satisfy these needs.

At present school television seems to be a means of increasing the power and the effectiveness of teaching. Is it not able to provide class teachers with new opportunities for instantaneous observation, fresh and repeated information, presence anywhere in the world (ubiquitousness, in fact) increased authority (and even visual dramatisation), knowledge?

Outside class teaching in its traditional form, does it not allow the solitary pupil (or the isolated group) to follow the lessons of first-class teachers, to keep in closer touch than they would with correspondence courses, and at the same time to receive instruction that is more rapidly assimilated and more easily memorised because it is more visual?

A paradox, then, this television that has to be more spectacular and more effective in a few minutes than the tried and tested forms of regular teaching.

3. The fundamental paradox of school television, however, lies perhaps in the fact that it represents the attempt *to reconcile the two diverging structures* of a television organisation and an educational system.

It sometimes happens that a centralised system of education coincides with a centralised television system. This is the case in France, Italy, and Belgium, where school broadcasts at the national level can pattern themselves on the national teaching programme.

On the other hand, it may happen that education and television are both decentralised. This state of affairs, which exists in the United States, for example, and might also arise in the German Federal Republic, results in a dissipation of effort, not to say a squandering of money.

It can also happen that a centralised system of television may correspond to a decentralised system of education. Television would then tend (as sound broadcasting for schools has done in Great Britain) to bring about a gradual alignment of certain school subjects (the observational sciences or drama) with the national

broadcast programme proposed by the television organisation.

Thus, television on the technical, educational and political planes is a surprising paradox, but a paradox that is full of vitality because it is tending at present to play an increasingly important part in European education, both as a palliative and as a creative element in the educational system.

Current Types of School Television in Europe

If we exclude *a priori* the use of closed-circuit television for teaching purposes making it possible to reach a given audience in advance in more or less close collaboration with it (especially in the case of higher education), the use of television in Europe for educational purposes is at present characterised by two quite different and incompatible trends.

- (a) Television provides direct instruction in the form of lessons intended for viewers of school age. This direct teaching is planned for individual use. The television system is thus a complete substitute for the conventional educational structure. This is the case of the Italian *Telescuola* which is not in fact school television but an independent *televised school*.
- (b) Television supplies existing establishments with documentation and information supplementing the daily lessons. These broadcasts are listened to by groups and are intended for collective use and for integration into the school's daily programme of work. This is the case of the French and British broadcasts.

Variations on these formulae have been tried: in France, science programmes for secondary pupils may be used both by solitary pupils registered with the Centre National d'Enseignement par Correspondance and by secondary schools lacking in modern scientific equipment. In Great Britain, science programmes on television are intended to be viewed in class under the supervision of non-specialist teachers.

But this is a far cry, in Italy and elsewhere, from the American formula of direct instruction designed for use in class within the framework of educational establishments. The direct lesson broadcast in schools, substituting the authority of the small screen for the teacher, would challenge the time-honoured foundations and the accepted forms of teaching in Europe whereby the initiative and control in educational matters rest with the teacher in charge.

Indeed, television first started in France, Great Britain and Italy for the purpose of providing *definite answers to definite educational needs*: in France, it has endeavoured to supplement the instruction given in country primary schools and the badly equipped little provincial colleges; in Great Britain, television has been directed to secondary modern schools whose pupils are

the least endowed on the intellectual side; in Italy, *Telescuola* is a substitute for a type of school which lack of funds has so far made it impossible to provide.

It is quite probable that the failure of some school television experiments in certain European countries should be attributed not only to difficulties of a financial or technical nature but also to an unsatisfactory analysis of the educational requirements and problems for which television could provide an original and effective solution.

Regular services: France, Italy, Great Britain

School television in Europe has evolved on a national scale, empirically (as in France), or as the result of much preliminary reflection (as in Great Britain), or following a governmental decision to cope with a state of emergency (as in Italy).

It will be noted that there are two school television services in Great Britain which have developed alongside each other—rival services, and encouraged as such.

Of these four important services, three are entirely in the hands of the television organisations. France

is the only country where the broadcasts are prepared and produced in joint collaboration and on an equal footing by the radio and television organisation and the Ministry of Education in accordance with a definite distribution of responsibilities and an unfailing solidarity which makes one responsible for the contents and the other for the effectiveness of the pictures.

The production systems adopted in the various countries are very similar, both as regards the timing (programmes are broadcast everywhere at the beginning of the afternoon at an hour which allows for sufficient preparation before the broadcast and leaves time for discussion immediately after the programme), and as regards the production methods: use of special studios for live broadcasts, with filmed inserts. The production of "drama", the use of O.B. vans and the making of sound films are uncommon.

What is the effect of these broadcasts on the children, and young people to whom they are primarily addressed?

It is relatively easy to estimate the effects of television on an audience that is not subjected to any other influence (as in the case of *Telescuola* which can be judged on the

TABLE I
REGULAR SCHOOL BROADCASTING SERVICE IN 1959

	France	Great Britain		Italy
		BBC	Associated-Rediffusion	
Starting date	October 1951	October 1957	October 1957	October 1958
Organisation responsible	joint responsibility Institut Pédagogique National/RTF	BBC (School Broadcasting Council)	A-R (Educational Advisory Council)	RAI <i>Telescuola</i> : televised courses of vocational training pro- vided by the RAI
Total no. of hours broad- casting	70	120	180	520
Percentage of repeats	nil	40%	60%	nil
Average duration of pro- gramme	28'	25'	25'	30'
Annual budget devoted to equipping schools	local funds for primary schools; for secondary and technical schools, approx. 200,000 NF	local funds only	local funds	Contributions from var- ious bodies and local funds
No. of primary schools equipped in 1959	3,470		1290	2,200 sets (only 20 schools)
Secondary schools	210		460	
Technical schools	250		unknown	
Ancillary literature	teachers' annual brochure (free), analytical pro- gramme calendars (quarterly) <i>Documents pour la Classe</i> (subscription)	teachers' notes (free), pupils' booklets (charged for) yearly programme	booklets (for both tea- chers and pupils) (free), yearly programme	complete textbooks (charged for) bulletin

percentage of regular viewers who pass the examination for which *Telescuola* has prepared them—this was 70% in 1959), but on the other hand it is impossible to estimate exactly the direct impact of television on the child who is subjected to the many and varied influences of school life. Moreover, the fleeting, instantaneous nature of the broadcast and the number of variables it contains limit the possibilities of a scientific check of the results by comparative methods.

Partial and empirical observations, however, make it possible to improve upon the best production formulae (types of broadcast, structure, presentation techniques, frequency) and the procedure for use of the broadcasts (preparation, observation, follow-up, relation to normal school activities, linking up with real life). They even make it possible to estimate the positive influence on the teachers' work and their professional conscience. There is less certainty about results in connection with

the memorisation and retention of the facts presented by television.

There is the feeling, however, that nowhere has the introduction of television into schools acted as a hindrance to the life of the school, and that wherever it has been used to good purpose it has produced a ferment of activity in the classroom, improving the atmosphere and raising the intellectual tone. Thus, instead of standardising teaching practice, television seems to encourage diversity and originality in education.

Nevertheless, it is important to note that television is used at present on an almost exclusively voluntary basis. It follows therefore that it is generally the best teachers, the most active and the most interested, who make use of the broadcasts. Teachers who are only concerned with sticking to a routine are against the introduction of the new techniques and it is precisely those teachers whose methods would have most need

TABLE 2
SUBJECTS AND LEVELS IN 1960

	France	Great Britain		Italy
		BBC	A-R	
8-11	100 broadcasts of 30' 80 broadcasts of 15' (no repeats)	180 broadcasts of 25' 90 repeats	150 broadcasts of 25' 150 repeats (of 25')	640 broadcasts of 40' 64 broadcasts of 10' (no repeats)
11-12	Elocution (village life) Historical conundrums Geographical vocabulary Animal life	Travel (Kalahari, Laplanders, etc.) Natural history (birds, trees, water in nature) Music (the instruments of the orchestra) Visual arts	<i>The World Around Us</i> (conquest of the earth, sea and air) Handcraft	Italian Mathematics Science of observation French Technical drawing
13-14	Geography (France) Preparation for life in the community and at work Current affairs Books Modern languages (English — German — Spanish — Italian)	Archaeology (Stone Age — Carnac — Jericho — Stonehenge — Pompeii) <i>First years at work</i> History (1900-50) Science and life (the physical world, evolution)	Drama (mediaeval and Elizabethan drama, 18th century comedy) History (London)	Italian French Mathematics Physics and Chemistry Technical drawing
14-16	Classical drama Human geography	Current affairs (Cyprus, Cuba, etc.)	Science (<i>Endless Adventure</i> : arithmetic, measurement, human progress)	Vocational guidance (all levels)
Over 16	Industrial engineering (metallurgy) Business techniques (secretarial training, multicopying) Physics and Chemistry (energy) Biology	Science (living cells, nuclear energy, cosmic rays, etc.)	<i>The Artist in the Modern World</i> (opera, ballet, painting, architecture, films)	

TABLE 3
EXPERIMENTAL SCHOOL BROADCASTS

		Belgium	Netherlands	Switzerland	Great Britain	Austria
Date		February 1956	November 1958	January 1959	September/December 1959	September 1959
Origin	INR with the assistance of the Belgian Ministry of Education	Centre of Contact between Industry and Teaching with the assistance of the NTS (Netherlands television service)	Société Suisse de Radiodiffusion with the assistance of the Director of the Geneva Education Authority	ITV (Granada TV) and the British Association for the Advancement of Science	Ministry of Education and Austrian television service	
Number	4 broadcasts supplemented by a newsreel	1 broadcast	2 broadcasts	10	1	
Duration	4 of 20' and 4 of 10'	20'	30' and 45'	30'	20'	
Level	12 to 14 years (primary education)	physics for 3rd form (15 years)	12 to 13 years (primary education)	17 to 18 years (sixth form)	secondary schools	
Number of schools reached	40 primary schools in the Brussels and Liège districts	65 primary schools	centre of England	20		
Subjects	(1) visit to a mine (2) visit to a pottery works (3) an elephant from Antwerp Zoo (4) geography and costume	physics lesson relayed from a school liquid gases	(1) geography of glaciers (with rescue pilot Geiger) (2) visit to Geneva Ethnographic Museum	modern science by eminent scientists: Sir Edward Appleton Sir John Cockcroft and others	the wine districts of Austria	
Remarks	all these broadcasts had previously been filmed	plans for another broadcast on the Amsterdam Stock Exchange had to be abandoned	the first was a filmed montage and the second a telexrecording of a live programme	recorded broadcasts and repeats	filmed programme	
Conclusions	need for 30' per week for primary schools; need for live programmes; respective roles of television and the film and responsibilities of teachers and technicians require to be defined	televised lesson unconvincing; another attempt to be made	need for live programmes; attempt should be made to reach technical rather than primary schools (scattered); not enough money or technical equipment to carry on	need to define the role of television in relation to the other audio-visual techniques		

of the benefit of the new teaching aid. Without encroaching upon the traditional independence of the teaching profession, would it not be advisable to find a way to spread the invigorating influence of television to the relatively shapeless mass of conventional teachers?

Small-scale Experiments since 1956

Some experiments along the same lines have been carried out in Europe since 1956: in Belgium, French-speaking Switzerland, the Netherlands, and Austria.

One of the main difficulties met with in the course of these experiments seems to have been the sharing of initiative and responsibilities between the television organisations and the educational authorities: gathering the documentation, preparing the ancillary literature, setting up experimental equipment.

The Austrian experiment is under way at the moment. Elsewhere these experiments have been stopped, for lack of materials more than anything else.

Current Difficulties and Obstacles

The regular school television services (France, Great Britain and Italy) have passed beyond the experimental stage and have assumed the responsibilities of national services. The possibility of expanding time-tables and programmes is being studied in Italy, as well as in Great Britain and France.

As from 1960, Italy will supplement the *Telescuola* courses by a third-year course, thus broadcasting a volume of programmes which will be about equal to

half the total volume of the other programmes transmitted by the Italian television service. The French school television service, for its part, will endeavour to develop programmes associated with the correspondence courses, so as to lay the foundations of a future television service of a social order. In Great Britain, where school television has so far been designed especially for secondary schools, a great effort is being made to reach primary pupils between the ages of 9 and 13. In France, as in Great Britain, an attempt will be made to increase the number of repeats as much as possible, in order to facilitate the inclusion of the programmes in the school curricula.

Apart from this, some countries which have started experimental programmes will continue with them, or try something on new lines. Besides Austria which is continuing its experiment and the Netherlands which is to start again on a systematic basis, Sweden and Norddeutscher Rundfunk (Hamburg) have projects which are being studied.

Forthcoming Developments

Other long-term projects have been discussed in Belgium (rebroadcasting of educational films), Italy (use of the second programme as from 1961), Sweden (possibility of direct instruction by television for country districts with a very scattered population), and Switzerland (scientific programmes for technical institutions). Others crop up daily as the teaching situation in Europe grows more difficult.

TABLE 4
PROJECTS UNDER CONSIDERATION FOR 1960

	Austria	Sweden	Netherlands	City of Hamburg
Organisation responsible	Ministry of Education and Austrian television service	Swedish television service	Educational Film Foundation and Netherlands television service	Norddeutscher Rundfunk
Starting date	middle 1960	October 1960	end 1960	not fixed
Level	secondary	secondary	4 — technical 4 — primary 4 — junior secondary 4 — senior secondary	secondary
Estimated number of sets in schools at the start	20	not estimated	30 for each group	25
Number of programmes	2 experimental programmes	3 weekly programmes	16 programmes of 30' in all	daily programme of 30'
Subjects proposed	chemistry (petroleum), physics (nuclear physics)	physics, vocational guidance, current affairs	general information, physics, geography, social studies	science, geography, civics
Liaison with sound broadcasts to schools	certain	certain	possible	certain

It must not be concluded from this that school television has been able to settle all its internal problems. There are still plenty of those.

Some are of an educational character and spring from the very nature of teaching, and in particular from its rigid time-tables. In primary schools and more especially in country schools, the teacher may adapt his time-table to the reception and use of the broadcasts. It is quite a different matter in secondary and technical schools where the number and variety of teachers and the break-up of subjects taught compel the head of the school to make special arrangements in the matter of time-tables at the

publication and distribution, whose importance should not be underestimated. Apart from its series of textbooks, *Telescuola* publishes a bi-monthly bulletin designed to act as a link with viewers. French school television has perfected a complex system which includes programme brochures, quarterly analytical calendars for display purposes, and a bi-monthly review supplemented by a weekly report in the official review of the teaching profession. Yet even here some who use the programmes felt they were not sufficiently well informed and last-minute roneographed sheets have had to be published for secondary schools, giving full details about the programme three days in advance. This procedure is valid so long as the schools taking the broadcasts do not exceed the half-thousand.

A third obstacle, which is as much administrative as educational, is the difficulty that is still experienced when attempts are made to define the respective functions of the various audio-visual techniques in education. An argument often used against television is the educational value of sound broadcasts to schools. Are they not enough in themselves to bring teaching up to date? This argument has been used for a long time in Great Britain and Sweden. It is also very common in Austria, Denmark and Switzerland. In countries where school television is an offshoot of school sound broadcasting, developing within the same structure, it often has difficulty in expanding.

Apart from these considerations, the growth of television has been retarded by the marked or latent reserve evinced by those responsible for school films, and particularly in cases where the film was in a strong position and was generally giving satisfaction, as in Great Britain. In France, where school films have experienced certain obstacles hindering their development, particularly in country districts, school television collaborates with the school film within the National Institute of Teaching (Institut Pédagogique National) for the purpose of coordinating both types of production. Efforts in the way of joint production, the use of filmed material for film libraries, and the distribution of recordings have been concentrated on productions designed for primary schools. In Italy, on the other hand, *Telescuola* has developed outside the National Audio-Visual Centre (Radio, Film, Television) in Rome and without its cooperation in the preparation of the broadcasts.

It is of course too soon to be able to define the respective functions of radio, films and television, especially as technical progress is too rapid for us to be able to assign definite spheres of action to the different media of communication. However, it can already be surmised that the film will continue to play an important part when the subject demands detailed study and repeated observation, as for example in the case of the teaching of science, technical apprenticeship, and perhaps the study of modern languages, whereas television will be given the task of disseminating instantaneously general last-minute information. It is to be hoped that more planning



(Photo IPN)

At the Fontainebleau re-education centre

beginning of the year, in order to allow the largest possible number of pupils to have the benefit of the television programmes.

Another difficulty of a more technical nature is the need to provide the teachers who will be using the broadcasts with advance details concerning the exact contents of the programmes in order to enable them to prepare the presentation of the broadcasts and the manner in which they will use them. As a minimum, this information should include: the level of the broadcasts, educational aims, plan of the programmes, main difficulties in connection with their use, supplementary written or visual documentation. For programmes of the *Telescuola* type, the ancillary literature should be expanded to the size of a textbook. But, unless a broadcast series is recorded at the time when the ancillary documentation is published, users may often discover a discrepancy between the intention as announced and the details of the contents of the actual broadcasts which (although intended for school use) are subject to all the material and psychological hazards of television production.

That is why mounting a series of television broadcasts demands the operation of a system of information,

of television broadcasts in the various countries, provided it is done methodically, will lead to better planning of educational publications and perhaps even to a more systematic production of broadcasts and films for teaching purposes.

Prospects for Expansion on the National Scale

Educational television has a reasonable chance of developing only in places where a concentration of efforts is possible on the intellectual, financial and technical planes. Wherever educational structures are centrifugal (Swiss or German federalism, Dutch or Belgian pluralism, British autonomy, etc.), educational television has been unable and will continue to be unable to develop unless it can have the benefit of a stable element inside these national structures.

Once this element is found, producers and users of the programmes should be helped to become aware of the potentialities and the limitations of television in the service of education. In many countries, educational television too often resembles a subject for theoretical discussion borrowed from science fiction. It is resorted to, but on condition that it be considered as something far-removed from reality. There is too often no sign of any diligent or realistic reflection.

The first peril lying in wait for school television is presumption: many teachers (in France and elsewhere) imagine that television can do anything and teach everything. Some of those who use it demand feats that are physically impossible. Producers, on the other hand, think it is enough to appear on the screen and talk in order to teach something. But to be effective school television should lie half-way between a regular show and a monologue.

The next consideration is an evaluation of the facilities at the disposal of European television services. The small number of studios and the scarcity of qualified staff are at present obstacles redhibitory to a widespread development of school television.

On the other hand, the forthcoming creation of a second programme in Germany, Italy and France (and the establishment of a third programme in Great Britain), the perfecting of low-power transmissions which could be entrusted to the Universities, and the arrival of colour television, resulting in a certain loss of interest in black and white television on the part of the general public — developments such as these might make it possible in the next decade to see television as a really national educational tool.

Still in realistic vein, it would be advisable to make plans for developing closed-circuit television installations in the major educational institutions. In this way, public broadcasts could be used to the best advantage, because they could eliminate all those subjects that should be dealt with inside an institution or in a town through the intermediary of a closed circuit. The backwardness of Europe in this respect is probably largely

due to the fact that it was television organisations that first started school broadcasts. As a result, they are not very concerned about "sorting out" what comes within their province and what does not. In addition, they are usually badly equipped to experiment within a given school on closed-circuit equipment, which is outside their technical field from the point of view of installation, maintenance and projection, as well as of the administration of the system and the means of controlling it.

One last problem is the difficulty of equipping schools with sets, and this is a problem met with in every country. But so far national industries on the whole have shown little interest in the equipping of schools: after all, is this not a very small market, and one that requires special production on a small scale? Besides, the funds for equipping schools with sets are generally administered by local authorities so that it is particularly difficult to find markets and obtain large contracts.

So far, it is partly thanks to grants from private societies in France or in Great Britain that a number of schools has been able to acquire sets. (The same is true in Italy for the formation of "listening groups".)

It appears that educationists in certain countries, particularly the smaller countries, would like to have studied, under the auspices of a competent body such as the EBU, the possibility of an international scheme for



(Photo IPN — Savonnet)

Drama broadcast — Les Fourberies de Scapin

equipping schools with the aid of the national electronic industries. Would it not be possible, they ask, to develop an inexpensive standard set that would be sturdy, easy to handle, safe, and capable of being sold in large quantities *exclusively* for school use? It might even be possible to contemplate having these sets offered to schools by the industries concerned as part of technical or secondary school equipment. However attractive the idea of a European set for school use may be, it will probably meet with opposition from the various national trade unions of the electronic industry.

What are the Possibilities of Action at the International Level?

Another paradox to be added to the list already mentioned is that of the isolation of educational information experts. Indeed, it is surprising to discover that two similar programmes on the internal combustion engine were produced simultaneously (and separately) in France and Great Britain in March 1959 without any contact having been made between the two organisations. During the same year two programmes were given at the same time in France and Italy on vegetative multiplication. These science programmes would certainly have been improved if the scenarios of the broadcasts could have been exchanged, if the producers had been in touch with one another, and if the sources of information had been made public. The way is open, then, for a serious effort in the field of information, and exchanges of experts within the framework of existing international services.

Some would find it desirable to go beyond simple facts about current programmes and future projects; they would like to have a review of the teaching matter (demonstration techniques, films, models of stage sets, etc.) available on an international scale. It might be possible to consider having permanent international catalogues of school television materials for regular widespread distribution throughout Europe. These catalogues would make it possible to keep abreast of legal problems, matters connected with copyright, obstacles hindering exchanges, etc.

The compilation of these catalogues as well as the preparation and study of the documentation referred to should of course be undertaken within the framework of the numerous international organisations which are already concerned with these questions (International Film and Television Council, International Council of Film Education, Scientific Film Association, etc.).

If these efforts proved to be successful, there would be nothing to hinder the coordination of research and the exchange of results, or for that matter long-term projects for the joint production of educational material available in the form of short filmed sequences capable of being re-assembled and adapted to suit the needs of the applicant.

It would seem that it should be the EBU, together with the other educational international organisations interested in the use of television, that should take the initiative in these matters. The progress of television in certain countries, and the amount of reflection going on in others, deserve more of us today than mere polite attention. As of now, systematic exchanges of telerecordings of school broadcasts for information purposes in countries speaking the same language (France, Belgium and Switzerland; or Switzerland, Germany and Austria) should be

so organised as to permit the gradual encouragement of the idea of European collaboration which is evidently not yet fully developed.

School Television — A Tool for Immediate Use or a Long-Term Investment?

Is it necessary to wait any longer? Even now, school television has become a working tool in the service of education, precise yet limited. In this sphere alone it has rendered services that will continue to grow.

On the other hand, the pressure of progress in the scientific and technical fields may very quickly lead to plans on all sides for the creation of television broadcasts outlining an educational system complementary to the traditional one: occupational promotion with its twofold aspect of supplementing school work at the level of general instruction and organising technical training, and possibly inducing change of occupation; promotion of the worker allowing the labourer to aspire to the technician's job, the technician to become an engineer, and even the labourer himself to become an engineer; a working man's training in the widest sense, no longer addressed to the individual but to workers as a group. This attempt to plunge Europe into a permanent bath of modern learning will only succeed if school television has built a solid framework for it, and if possible at the European level.

In any event, school television can now be considered as a long-term investment by the television organisations themselves. By allowing the schools to use pictures, they are preparing future adult viewers to make sensible use of television. Helping schools to encourage the deciphering and interpretation of pictures alongside the teaching of reading is one of the major educational works of our age.

In conclusion, even if we exclude on the grounds of uncertainty the present impact of television on a general public which is always curious about anything connected with education, the national television organisations will have to realise that the use of television in schools has evaluated television in general. Is not the final paradox of school television the fact that it is often used as the spearhead of television against certain cautious sections of the public? France can confirm this, like Great Britain or Italy: school television has acclimatised television in rural districts which were particularly irresponsible, just as it has made it possible gradually to win over the cultured classes, and in particular University circles. Thanks to school television, University graduates, after repeatedly declaring that they were in principle opposed to the small screen, have discovered the exceptional potentialities of the new medium of communication and expression.

THE USES AND DEPLOYMENT OF FILM RESOURCES IN THE BBC

by DAVID MARTIN

Head of the BBC's Midland Film Department



MR. DAVID MARTIN

Every month, eleven separate parcels of film leave my office in Birmingham. Their destination is some of the broadcasting organisations belonging to the EBU who include in their programme schedules television broadcasts about agricultural and rural affairs. These films reflect some of the diverse activities in the farming world for which this country is famous. They have all been seen on the BBC's network, but have been re-edited and had a special commentary written, in order that they shall have the maximum impact and interest in the countries to which they are sent.

This kind of activity is but one of many in a regional film unit. From Birmingham we cover the whole of the Midlands of England. There are similar units in Bristol, serving the West Country; in Cardiff to cover Wales; in Manchester for the North Country; Glasgow for Scotland; and in Belfast for Northern Ireland.

London is our headquarters, and together we form the largest permanent film unit in the world. It has been the BBC's policy to have the bulk of its films and film sequences made by its own staff and using its own equipment. To us this is obviously wise in terms of economy, efficiency and flexibility, but it has never been the normal practice among television organizations in Britain or elsewhere. A brief glimpse at the range of the BBC's film activities is sufficient justification for this claim, for in 1959 more than 1,600 separate programmes made use of film, making up a transmission time of over 300 hours. The increasing use of film in our programmes over the years has necessarily meant the employment of a large number of fully professional film production teams consisting of thirty or so camera and editing crews and supporting technical services, placed in different parts of the country.

A further impression of the size of the department can be gauged when I tell you that we have sixteen review theatres operated by some forty projectionists working on a shift basis; a film library with a staff of twenty-one, and other teams who specialise in editing, sound dubbing, negative cutting, film examination and film despatch. The demand for skilled technicians exceeds the available supply, and so the department operates its own training scheme providing a basic training in the fields of camera, editing, recording and projection work. One of the most important uses of film is in the reporting of current affairs—as distinct from news. Programmes such as *Panorama* and *Tonight* have their own film crews attached to them, which span the world in the search for new material. Apart from continued visits to the mainland of Europe, they visited Italy, Ceylon, Indo-China and Singapore in 1959. Some of the major international sporting events have been covered by BBC crews working as far west as Latin America, and as far east as Moscow. Light entertainment, drama, schools and women's programmes all demand and consume millions of feet of film, in both 35 mm. and 16 mm. gauges, every year.

These are all servicing activities, but the BBC's Film Department also exists as an originator of film programmes in its own right, and is responsible for many complete films. An example of this kind of work is a forty-five-minute feature made in Rhodesia about the Kariba Dam. It was filmed by a team of two in seven weeks, and produced by one of the department's cameramen, Charles Lagus. *Morning in the Streets*—which conveyed in a most graphic manner something of the life and customs of people in drab northern industrial towns—was made by the film unit operating from Manchester. We are all proud of the fact that it won the Italia Prize last year.

Requests from overseas television organisations for film facilities in the United Kingdom are gladly met whenever our own work permits us to do so, and we have given practical help in this way to Italy, Germany, France, Holland, Belgium, Denmark, Sweden and Poland.

The collection of news film is a separate enterprise altogether. The news division have their own camera crews working all over the country. They are ready to travel at a moment's notice to any part of the world for the coverage of stories that need special attention. Apart from routine assignments to cover disasters, ceremonials and other topical events, they are often attached to a Royal party when they are away for extended

overseas tours. The results of their work are seen not only on the home screen, but through television organisations the world over.

How does the Midland Film Department fit into this overall picture? Over ninety per cent of our output is devoted to network programmes. The remaining ten per cent is seen on a regional basis only, the potential audience being something over six million. We are equipped with staff and equipment to carry out any request that is made of us, the accent lying heavily on the side of programme servicing. A most important part of this region's film output is shown in our weekly *Farming* programme seen in all parts of the British Isles.



(BBC Photo)

"FARMING" — a weekly agricultural magazine for those who live by the land
The BBC Film Unit in action on a Herefordshire farm

The programme is now in its third year and its film content, averaging twenty minutes a week, has been largely shot by one crew. Operating from Birmingham has the advantage that it is within reasonably easy reach of the major agricultural areas of the country. The crew are first and foremost expert and professional film operators. But they are also expert in the rather special techniques required in shooting film for a specific audience, that is, the farming audience to which this programme is aimed. They have learned that the skilful use of a camera position and careful lens selection can accentuate exactly the kind of point that the farmer would wish to see. It would be no use filming a beef animal from a low point of view because this would most certainly make him look leggy and distort that animal's best points. They have learned that the most interesting shots for a farming audience are not necessarily the most compelling ones from a pictorial point of view. Lastly, they have become a very tough crew, learning to withstand the rigours of the English climate both in summer and in winter, and not to mind being away from home for extended periods.

Our film is processed in London—only two hours by train from Birmingham—and edited in Birmingham under the supervision of one of the production crew of the programme. We shoot on 16 mm. film for this programme, using an Arriflex camera. Apart from the advantage of the portability of a 16 mm. camera, there were of course sound economic reasons for our choice of this gauge. The Arriflex can, of course, be used both for silent and for sound shooting. We use the synch. pulse sound system, recording direct on to quarter-inch tape which is then transferred at our studio headquarters on to sprocketed magnetic film for editing purposes. With the use of this system we can carry out sound shooting with a two man crew only as compared with a minimum of four when shooting with a 35 mm. camera. The unit is equipped with sufficient portable lighting to meet all its everyday needs. In practice we find that the maximum amount of light we need at any one time using medium to fast film stocks is of the order of four to five kilowatts. This is all mains operated lighting. We also use battery operated lights, each set being small enough to be carried over the shoulder of the operator. The amount of light one set gives is equivalent to 275 watts. The batteries have a working life of about fifteen minutes, after which they can be quite simply recharged by plugging in to the nearest available mains source. This device has been very useful when operating in areas remote from a mains supply, and the use of it has speeded up our operations considerably.

The return for our considerable capital outlay in equipping this unit is a highly efficient and mobile team who turn in a high rate of usable footage. We insist on the highest possible photographic and sound recording standards, and this point has not gone unnoticed in the audience to which this programme is directed. A cameraman's job in the British Isles is not an easy one, for light conditions vary from hour to hour and even in summer he can never rely on getting a long unbroken spell of stable light.

During the past three years we have amassed a vast quantity of film reflecting the diversity of agricultural interests in this country. It is probably the most comprehensive collection of film of its kind in the world. We are about to begin on the mammoth task of indexing this film. The catalogue which will result should be of great value to programme directors of agricultural and rural programmes wherever they may operate.

The servicing of the *Farming* programme is only one of the responsibilities of our regional film unit operating from Birmingham. We provide film for a variety of programmes. These include a regional magazine programme called *Scan* which regularly uses twenty minutes of film in each thirty-minute edition. We also service our Drama Department with sequences for inclusion in live plays. Another programme which relies on film is called *Gardening Club*, reaching an audience of millions every week all over the British Isles. Apart from this servicing role we too, like our London colleagues, are

responsible for many complete films. These are mainly documentary subjects filmed within the confines of our region. Recent full length subjects have included films



(BBC Photo)

Filming for a programme on the day-to-day work of a bomb disposal unit

about open prisons, colour prejudice in Birmingham, the building of Britain's first Motorway—the M.1—and a feature about a chainsmith who lives and works in the area immediately to the north of Birmingham known as the Black Country. Such is the pressure on our resources that the shooting and the editing of these films must be very tightly scheduled. We normally allow two to three week's shooting for a half-hour film with another three to four weeks for the completion of the editing and dubbing stages.

My own part in these operations is a privileged one in that I am not only responsible for the day to day running of my department but I also act as a producer of programmes. It was my pleasant task earlier in the year to present a short film to mark the tenth anniversary of the formation of the European Broadcasting Union. Having made an exploratory visit to Geneva, Berne, Paris and Brussels, I returned to Birmingham to piece together the programme. This consisted of a message from Sir Ian Jacob, President of the Union, and a compilation of some of the more memorable Eurovision programmes that have been seen during the past few years. It was very difficult to know where to begin, because as far as

I was concerned—as a viewer at any rate—all of the transmissions that I had seen from Europe had been memorable. Before choosing the extracts that were shown in this film I viewed many thousands of feet of telerecordings. Most of these were on 35 mm. film and had to be optically reduced for the final project. Some degradation of quality was inevitable, but surely part of the thrill of some of those earlier Eurovision programmes was that they were not technically perfect. The occasional breaks in picture and sound all pointed to the fact that we in England were receiving them over a combination of microwave points and permanent cables over distances that would have seemed impossible only a few years ago. The relay of programmes from any part of Europe is now taken very much for granted by viewers in the United Kingdom. The development of the network during the past five or six years to its present state of technical perfection is a tremendous story and I hope that it will be possible to tell something of it in a documentary film one of these days. As Sir Ian Jacob said in his tenth birthday message: "Truly we can say that television knows no frontiers, and is rapidly rivalling radio as the medium of exchange of the people of the world."

Film must and will play its part in the developments that are now so quickly taking place, particularly of course in the field of news. The film camera is always ready to go to a location whenever or wherever news breaks. The developed pictures can be projected at almost any point on the Eurovision network and recorded at any other. The regular interchange of film of all kinds between EBU countries is something which will inevitably expand.



(BBC Photo)

Filming at Pyrton Manor, Oxfordshire, for the weekly evening serial Bleak House, by Charles Dickens

In these ways film has a most important part to play in enabling communities to get to know themselves, and their neighbours, better every day.

LISTENER AND VIEWER STATISTICS
EUROPEAN AREA

Country or territory	Total licences current on 31st December 1959	Including			Variation during 1959		Licences per 100 inhabitants
		Free Licences	Wired Services	Television	Figures	Per cent.	
Andorra (1)	1,800						30.00
Austria	2,040,809	23,731	16,044	111,873	+ 117,741	5.77	29.15
Belgium	2,869,261		133,722	392,355	+ 236,484	8.24	31.44
Bulgaria	702,000			2,000	— 199,542	28.42	10.02
Cyprus (1)	87,000			3,000	+ 3,828	4.40	16.53
Czechoslovakia	3,956,453	13,353	345,786	518,912	+ 633,245	16.00	29.02
Denmark	1,861,014	166,566		351,044	+ 172,309	9.25	40.86
Egypt (1)	850,000						3.70
Finland	1,231,474	10,185		34,248	+ 74,072	6.01	27.67
France (including Algeria)	12,733,670			1,406,242	+ 635,289	4.98	28.30
Germany (Fed. Rep.)	15,900,447	560,731	118,630	3,363,666(2)	+ 891,784	5.61	28.74
Germany (Eastern zone)	6,082,579			593,479	+ 412,415	6.78	35.18
Gibraltar	4,920	83			+ 254	5.16	19.68
Greece (1)	545,366						6.81
Hungary	2,147,225		259,239	44,868	+ 911,225	42.43	21.52
Iceland	47,345	345			+ 2,845	6.01	27.20
Ireland	492,441	2,830			+ 7,361	1.49	17.01
Israel	438,489	7,390			+ 73,438	16.74	20.89
Italy	7,671,327	84,517		1,572,572	+ 452,700	5.90	15.14
Jordan (1)	46,575						2.89
Libya (1)	17,498						3.84
Luxembourg	100,427	346		5,500	+ 5,031	5.01	31.18
Malta	22,450			6,000	+ 4,004	17.83	7.02
Morocco (1)	431,350						4.93
Netherlands	3,680,261	188,927	460,241	584,766	+ 291,362	7.91	32.20
Norway	997,000	12,500		6,472	— 302	0.03	32.47
Poland	5,169,500			238,500	+ 619,524	11.98	17.52
Portugal	782,801	1,075		29,702	+ 122,381	15.63	8.70
Spain	2,492,779			29,473	+ 387,952	15.56	8.47
Sweden	3,284,460	1,500		598,530	+ 388,900	11.84	43.80
Switzerland	1,472,502	5,925	354,354	78,700	+ 67,212	4.56	28.09
Tunisia	130,425	418			+ 29,490	22.61	3.43
Turkey	1,218,556				+ 51,504	4.22	4.51
United Kingdom	14,945,612	55,583	1,054,342	10,114,419(2)	+ 192,996	1.29	29.51
USSR (3)	46,000,000		30,000,000	4,000,000	15,000,000	32.60	21.69
Yugoslavia	1,412,630	91,630		12,000	+ 324,897	23.00	7.61

(1) Last available figure or estimate failing more recent information

(2) Combined radio and television licences

(3) Approximate figures.

NEWS AND INFORMATION

UNDA

Third International Catholic Television Meeting at Monte Carlo, 15-20 February, 1960. — For the third time UNDA (International Catholic Association for Radio and Television) has held a meeting of religious television specialists.

The "UNDA Meetings" Committee, composed of Mr. Fierro (Spain), Mr. Haas (Switzerland), Mr. Pichard (France) and Mr. Siegel (Germany), had been asked to organise this festival, which takes on greater proportions each year. The Committee worked in close collaboration with the local personalities, particularly Mr. Solamito, Administrator of Radio Monte Carlo, and Mr. Michéo of Télé-Monte-Carlo.

The sixteen national centres which took part officially in the 1960 Meeting contributed 88 documents (films and telerecordings). The selection committee chose 52, of which 35 were for the competition and 17 for the exchange pool.

As Mr. Hankard (INR)—a perfect president—pointed out, the aim of these meetings is twofold. They seek to reward, in this international competition, the produc-

showed decided progress at the 1960 Meeting. In accordance with the regulations the results were obtained by secret ballot.

The abundance of the entries and the large numbers of specialists (delegates from national centres, official national television administrations, press agencies, critics and journalists) made it clear to the organisers that the time allotted to the competition did not allow the participants enough opportunity for discussion and exchange of views. As the programme is already a very full one, a means of cutting down the projection of the works will have to be found, some of them being shown only partially.

It was also remarked that it was not justifiable in all circumstances to distinguish between films and telerecordings. Next year's Meeting will probably separate into two sections: run-of-the-mill productions, used in regular programmes, and works calling for more extensive means and, as such, exceptional.

Six prizes in the form of bronze UNDA doves were awarded by the jury, and for the first time a seventh prize was given by television critics and journalists to symbolise public opinion.

Furthermore, a certain number of "mentions" enabled the jury to draw attention to the qualities of several interesting works.

These prizes and mentions were awarded at a solemn session presided over by Their Serene Highnesses the Sovereign Prince and Princess Grace and His Serene Highness Prince Pierre of Monaco.

In the audience were Monsignor François Charrière, bishop of Lausanne, Geneva and Fribourg, high patron of UNDA, and Gilles Barthe, bishop of Monaco, Their Eminencies the Minister of State and Mrs. Emile Pelletier, His Excellency the Plenipotentiary Minister for Monaco to the Holy See, Mr. Solamito, as well as the religious and civic authorities of the State and Parish of Monaco and many guests. Delegates were present from the following national broadcasting organisations: RTF (France), RAI (Italy), BBC (United Kingdom), KRO (Netherlands) and SSR (Switzerland, Télévision Romande). For the first time Germany, in addition to a large delegation, sent the *Intendant* of the Hessischer Rundfunk, Mr. Beckmann, of the Süddeutscher Rundfunk, Mr. Bausch, and of the Saarländischer Rundfunk, Dr. Mai. The Österreichischer Rundfunk was represented by Mr. Rudolf Henz and Dr. Scheib.

Speaking as patron bishop of UNDA, His Excellency Monseigneur Charrière expressed the very respectful and sincere gratitude of UNDA to the Sovereign Prince as well as to all the official personalities, not forgetting



(Photo Fausto Picedi)

Canon Haas (centre) with Father Kors, President of UNDA, and Father Labelle of Canada

tions made for religious television and to facilitate their exchange, as well as to encourage personal contacts between authors, designers, producers and the directors of television stations, to stimulate useful discussion among them, and, by means of the pools, to offer them real possibilities of learning from one another.

The choice made by the jury—composed of a member from each delegation—and its justification for this choice

PRIZES AND MENTIONS AWARDED

Bronze Doves

Category	Title	Producer	Country
Drama	<i>Ruf ohne Echo</i> (telerecording) (Saints in Hell)	Süddeutscher Rundfunk, Stuttgart	Germany
Educational	<i>Out of this World</i> (telerecording) (A visit to the Carmelites of Presteigne)	BBC, London	Great Britain
Educational	<i>Extrême-Onction</i> (film)	Télévision romande	Switzerland
Reportage	<i>The Decisive Years</i> (telerecording)	National Council of Catholic Men, NBC, New York	United States
Reportage	<i>I Fratelli del Deserto</i> (film) (The life of the Little Brothers of Father de Foucauld in the Sahara)	RAI, Rome	Italy
Colour film Special prize	<i>The Passion and the Resurrection</i>	National Council of Catholic Men, NBC, New York	USA
Critics' Prize	<i>Die Sieben Leuchter</i> (The seven candlesticks of the Apocalypse)	Bayerischer Rundfunk	Germany

Mentions

Category	Title	Producer	Country
Drama	<i>Amahl en de nachtelijke Bezoekers</i> (Amahl and the Night Visitors)	KRO, Hilversum	Netherlands
	<i>Giovanna di Lorena</i> (Trial of Joan of Arc)	RAI, Rome	Italy
Educational	<i>La Settimana santa</i> (Popular Passion Plays)	RAI, Rome	Italy
	<i>Der Hauptmann von Kaphernaum</i> (Bible story in Chinese shadows)	NWRV, Hamburg	Germany
	<i>Fils de Dieu</i> (Story of Moses told to the children)	CBC	Canada
	<i>Per Crucem ad Lucem</i> (The ceremonies of Holy Week)	KRO, Hilversum	Netherlands
Reportage	<i>Die Sieben Leuchter</i> (The seven candlesticks of the Apocalypse)	Bayerischer Rundfunk	Germany
	<i>En la paz del monasterio</i> (Monastery of the Benedictine monks of Silos, Xth Century)	NO-DO Madrid	Spain
	Mitternachtsmesse aus der Bergkirche von Eisenstadt (Eurovision 1959)	Österreichischer Rundfunk	Austria
	Mass from the Grail (Open-air Mass at the Grail Institute, Pinner near London)	BBC London	United Kingdom

Among the entries which received no distinction from the jury, I should like to mention certain works worthy of special attention:

<i>Histoire de Daniel</i> (Mediaeval play of the 13th century)	Canada	60 min.
<i>Der Fenstergucker-Nr. 27</i> (The making of an organ)	Austria	
<i>Der Fenstergucker</i> (The permanent workshop for the construction of the Cathedral of Saint-Etienne in Vienna)	Austria	
<i>Pierres vivantes</i> (Reims cathedral)	France	
<i>San Isidoro de Leon</i> (Roman church and Byzantine paintings of the 10th century)	Spain	23 min.
<i>El Camino de Santiago</i> (The path of the pilgrims of Saint James of Compostella)	Spain	20 min.
<i>Assisi</i>	Italy	30 min.
<i>La Catedral de Santiago</i> (The cathedral of Saint James of Compostella)	Spain	15 min.

Monseigneur Barthe, who since the first Meeting had shown such understanding towards UNDA.

The third Meeting of religious television specialists in Monte Carlo confirms the hopes the directors of UNDA have always placed in these gatherings and encourages them to continue their efforts.

Canon Jacques HAAS

WORLD REFUGEE YEAR

Coverage by EBU Members. — Apart from the innumerable news items broadcast in sound and television by EBU member organisations on behalf of World Refugee Year (WRY), many of them created special documentary or feature programmes in order to stimulate support for the WRY among their audiences. An idea of the great variety shown in the planning of these productions can be gleaned from the following examples.

A grand variety concert, relayed by the sound service, was arranged by the Belgian broadcasting organisation for the benefit of refugee funds, and a television programme featured an enquiry into the work of the major Belgian bodies concerned with refugees.

Danmarks Radio carried an extensive television programme on work among refugees in North Africa.

In France, the RTF in its *Paris vous parle* series organised a major broadcast with items from Rome, London, Bonn, New York and Athens, and listeners were also able to follow reportages from refugee life in the camps.

The West German organisations too ranged far afield in their programmes on refugees, paying however special attention to their own country. The Südwestfunk marked a particular occasion by describing the laying of the foundation stone of the Anne Frank "Europe" village.

In the Netherlands, NCRV gave a sound and television broadcast of music performed by refugees, and AVRO reported on an exhibition of work done by refugees. VARA took part in an International Chain of Happiness programme from Radio-Lausanne. The campaign "Save a Child" supported by the broadcasting organisations met with a generous response.

Radio-Lausanne, in conjunction with the three Swiss services, organised the International Chain of Happiness programme referred to above. Radio-Genève ran a reportage in four parts from a camp in North Africa, and Radio-Zürich described work among refugees in several countries.

The BBC (European Service) was responsible for a sound programme in the series *European Enquiry*, the material for which was gathered by BBC scriptwriters in France, Germany, Austria, Switzerland, Belgium and Denmark; under the title *Finding Room at the Inn* it was broadcast both on the domestic and external services of the BBC in conjunction with other European radio stations. Another feature programme, *All of a Kind*, was made up of four separate contributions featuring W. H. Auden, David Niven, Danny Kaye and Peter Ustinov. BBC Television presented a series of four programmes entitled *The Cry Goes Up...*, prepared by the BBC Religious Broadcasting Department from material collected with the assistance of the World Council of Churches.

Most of the programme companies of Independent Television in the United Kingdom devised feature programmes and showed a number of films. Associated TeleVision gave 12 copies of its feature *The Lonely Ones* to World Refugee Year; and Southern Television sent a silent camera unit and a commentator on a tour of central European camps, the unit travelling with a van which was distributing Christmas presents among children.

Further afield, the American Broadcasting Company produced two programmes created in cooperation with the U.S. Committee for Refugees under the title *The Homeless Ones*, showing the plight of refugees in several countries of Europe and Asia.

It is interesting to note the number of organisations which planned special broadcasts for Christmas Day or thereabouts. Others made a point of introducing the WRY into programmes for World Children's Day or their national Refugee Day.

In addition to this necessarily rapid survey of some of the major programmes devised for the WRY, mention should be made of the United Nations features *The Life Story of Nikolas Mitetich*, *Residence Desired* and *1959—World Refugee Year*, which were broadcast by a number of radio stations. In television, several countries showed the documentary *A Far Cry* and the film *Power Among Men*. Films from the Geneva headquarters of the High Commission for Refugees were also given prominence.

Among the eminent persons who came to the microphone to speak on refugees, who were interviewed on television or whose messages were broadcast we can number His Holiness Pope John XXIII, Queen Juliana of the Netherlands (at the inauguration of the Netherlands Refugee Committee), King Baudouin of Belgium, Mr. Hammarskjöld, Dr. Lindt, the High Commissioner for Refugees, President Heuss, President Eamon de Valera, as well as leading churchmen and the chairman of many national refugee and Red Cross societies.

It has not been possible here to list the countless interviews, talks, appeals, news reports and magazine inserts included by EBU members in their normal programmes of all categories—actualities, specialised broadcasts for women, children, young people and schools, and religious programmes—but there can hardly be many events of the WRY which have not found an echo in the broadcasts of one country or another, and in some way most classes of refugee have been pictured for listeners and viewers. The information collected by the EBU enquiry is being made available to the High Commission for Refugees in Geneva.

AUSTRALIA

Annual Report of the Australian Broadcasting Commission. — The 27th annual report of the ABC stresses the fact that the year ended 30th June 1959 was notable chiefly for the Commission's activities in preparing for the extension of the national television service to the capital cities of Brisbane, Adelaide, Perth and Hobart¹. The competition of television for the radio audience is challenging the ABC to re-assess its radio programmes and give a great deal of thought to the problems of broadcasting as a whole.

¹ Plans for the further expansion of the service are described in *EBU Review* No. 59 B, page 21.

Despite the revolutionary changes in the pattern of entertainment resulting from television, the ABC's musical activities have continued to develop vigorously in the field of radio. Australian compositions represented 5.94% of the music broadcast during the year. A Composers' Competition was organised in conjunction with the Australasian Performing Right Association. Youth Concerts continued to draw large audiences and free concerts for school children are bringing orchestral music to an annual aggregate audience of approximately 200,000. The Concerto and Vocal Competitions attracted over 300 entries and gave 46 young musicians the opportunity to perform in public with symphony orchestras.

Plans have been made for the establishment of an ABC Television Writers' Workshop which it is believed will lead to the foundation of a genuine Australian television drama.

The exchange of programmes is extending into school television. Britain, Canada and Australia have exchanged examples of their pioneering work in this field and arrangements were made for the use of British telerecordings to widen the scope of the Australian experiments in school television².

Wide extensions and improvements in the use of radio in Correspondence School education for children in remote country areas were carried out by the ABC and State Education Departments.

Increased emphasis was given during the year to Radio Australia's broadcasts to South-East Asia, and broadcasts in Indonesian and Mandarin were increased. A total of 134,146 letters from listeners overseas was received in the 12 months ending 30th June 1959, 51,023 more than in the previous year. Plans for the introduction of lessons to help Indonesian listeners to learn English were completed and the majority of a series recorded. These half-hour programmes have been broadcast three times a day on two days each week since last October. The complete course of 104 lessons is to run for two years.

A total of 498 transcriptions of talks and features was supplied to overseas broadcasting services. Countries which received these transcriptions for the first time on a regular basis were Nigeria, Tunisia and Taiwan.

With the publication of the Commission's television magazine, *TV Times*, circulation of the *ABC Weekly* fell (and publication has now ceased altogether).

The total number of hours on the air in radio was 437,134 (3,570 more than in the previous year) and in television 5,518 (1,341 more than the year before). The total number of persons engaged for radio programmes, including musical ensembles, was 15,854 and 3,912 for television programmes.

The statement of net expenditure for 1958/59 shows that the total net figure was £5,907,447, of which £3,797,691 was for radio (an increase of £141,438 compared with last year's figure) and £2,109,756 for television (an increase of £666,018).

² Cf. *EBU Review* No. 58 B, p. 23, and No. 53 B, p. 21.

BELGIUM

International Grand Prix of Radio Plays. — The annual competition known as the *Grand Prix Annuel du Théâtre Radiophonique*, instituted by the French Broadcasts Section of the Institut National Belge de Radiodiffusion (INR) to promote the production of radio plays, is open to all French-speaking writers irrespective of nationality. Works presented, which must be original French plays specially designed for broadcasting and not previously broadcast, should have a duration of at least 30 and not more than 60 minutes. The prize of 40,000 Belgian francs will be awarded by a jury composed of seven members appointed by the permanent committee of the INR and the Administrator-Director General of French Broadcasts, and the winning play will be broadcast by the INR. Entries will be accepted up to 1st October 1960.

A copy of the regulations may be obtained from the INR. Entries should be sent to the Directeur des Emissions Parlées Françaises de l'INR, 18, Place Flagey, Brussels, or in the case of writers in the American continent, to Radio Canada, Boîte Postale 6,000, Montreal.

FRANCE



(RTF Photo)

MR. RAYMOND JANOT,

who succeeds Mr. CHRISTIAN CHAVANON as Director-General of the Radiodiffusion-Télévision Française. His appointment was briefly announced in EBU Review No. 60 B.

IRELAND

Broadcasting Authority Bill Passed. — The Dail (Irish Parliament) has passed without amendment the

Broadcasting Authority Bill, 1959¹, which enables the Republic to establish its own television service and provides for the setting up of an Authority to control television and develop sound radio.

The Authority, of which Mr. Eamonn Andrews, well-known broadcaster, has been appointed chairman, will be set up on 1st June.

ISRAEL

Commercial Radio on Kol Israel. — Kol Israel, the Israel Broadcasting Service, will introduce on April 3rd, 1960, a limited form of commercial broadcasting. This is made possible by a Government decision allowing Kol Israel to introduce commercial radio for an experimental period of six months. Should the experiment prove successful, the Government of Israel will grant Kol Israel a permanent right to broadcast commercial announcements.

The plan at present is to have two hours of commercial radio on an alternate wavelength so as not to affect the general planning of the major wavelength in Hebrew. The broadcasts will take place from 1700 to 1900 hours every evening except Fridays when they will be broadcast from 1500 to 1700 hours to preserve the sanctity of the eve of the Sabbath. There will be no commercial broadcasts on Saturday evenings.

The plan adopted by Kol Israel is a composite one taken from the experiences of many other radio services and based to a large degree on the system adopted by RAI. There will only be spot announcements of a minimum of 15 seconds and a maximum of 30 seconds for each individual announcement, which will be placed before and after each programme and in the "natural breaks" of the programme. There will be no sponsored programmes and the advertisers will have no contact with the programme planning department of Kol Israel. In each two hour period there will be 40 commercial announcements totalling not more than ten minutes of broadcast time out of the two hours.

A special commercial department has been set up within Kol Israel to handle all details of contact with advertisers and advertising agents. By the first week in March, one month before the start of the experiment, over 35% of the "time" had been sold for the full six months and it was anticipated that when the programmes began in April all of the "time" would have been sold.

The addition of two hours of broadcast time with the emphasis mainly on light programmes and entertainment programmes, will allow Kol Israel to plan its major network in a much more rational manner.

HARRY ZINDER

Director, Israel Broadcasting Service

¹ See EBU Review, No. 60 B, page 22.

New Project of Transcription Service. — So far Kol Israel's Transcription Service has concentrated on the distribution of finished programmes to radio stations abroad. A new project is to supply three- to five-minute inserts about Israel for use within the framework of newsreels, magazine features and women's and children's programmes.

Radio stations interested in this proposed new service are asked to communicate with Kol Israel which will be glad to send details.

POLAND

Increased Viewing Time. — During 1960 the Polish television programme will be broadcast for 2,000 hours, an increase of 350 hours over 1959. The change is mainly due to the introduction of two-hour Sunday programmes for rural areas. The programme schedule now presents the following picture: children's programmes, 14%; artistic films (ten a month) 14%; drama, 15%; entertainment (variety shows, sport, quizzes), 17%; political-informative programmes, 35%.

SWEDEN

Sveriges Radio's Yearbook 1959-1960. — This illustrated publication describes Sveriges Radio's activities during the year ended 30.6.59 and shows in particular the increasing contacts of the organisation with foreign broadcasting stations.

The External Relations Department, for example, distributed 1,400 taped programmes to stations abroad and received 1,460 from foreign stations; 402 direct relays came from other countries and 961 programmes from Sweden were relayed direct by foreign stations; and 100 visiting representatives of foreign organisations were given programme, technical and other facilities. The Overseas Programme Department broadcast on an average for 18 hours a day in Swedish, English, German French, Spanish and Portuguese. This department's Transcription Service continued to expand and distributed more than 200 taped programmes, mostly to North America which has about 200 subscribing stations. About 7,000 listeners subscribe to the monthly programme schedule of the department.

The growing international commitments of Sveriges Radio are further reflected in its expanding network of foreign correspondents; the heavier burden of radio work has obliged the corporation to hire its own correspondents in Washington, Bonn and Paris rather than continue working agreements with Swedish newspapermen stationed abroad.

During the year 1958-59 the total revenue from sound receiving licences was 79.3 million Kr. of which Sveriges Radio received 39.7 m. Of the total income from television licences (27.4 m. Kr.) plus the grant-in-aid towards operating costs (1.7 m.), the corporation received 17.8 m. Kr. The sources of Sveriges Radio's income break down as follows: sound radio licences—68.7%; television licences—30.8%; other income 0.5%.

At the end of the financial year the total number of staff was 1,248; sound radio, including the joint radio-television departments, accounted for 900 and television for 348.

UNITED KINGDOM

BBC Staff Changes. — Mr. J. Arkell, director of staff administration, has been appointed as director of administration in succession to Mr. T. R. P. Hole, who has resigned from the Corporation.

A new directorate responsible for publications, publicity, audience research and the secretariat has been formed under Mr. Harman Grisewood, who retains the title and functions of chief assistant to the Director-General.

Increase in BBC's Share of Revenue from Licence Fees. — The proportion of net revenue from sound and television licences payable to the British Broadcasting Corporation is to be increased from the 92½% being paid in the present financial year to 95% in 1960/61 and 100% in 1961/62. The Corporation will therefore receive an additional £750,000 in the next financial year and an extra £2,500,000 in 1961/62.

The percentage of the receiving licence revenue payable to the BBC is fixed after deduction of a sum by the Post Office for the service it provides in collecting licence fees and investigating interference. The remaining percentage, plus the £1 excise duty on the combined sound/television licence, is passed to the Treasury.

UNITED STATES

Amalgamation of BFA and NETRC. — The Ford Foundation has made a grant of \$500,000 to expand the exchange of educational and cultural radio programmes between the United States and countries throughout the world.

Under the grant, the Broadcasting Foundation of America will integrate all its operations with the National Educational Television and Radio Center's new International Exchange Division. BFA staff will move to the offices of NETRC in New York, but the BFA will retain its own corporate identity.

LEGAL SECTION

In No. 58 B of the Review (page 36) we gave a brief analysis of the main provisions of the draft bills on copyright recently published in the German Federal Republic under the title Ministerialentwürfe, or texts for which the Ministry of Justice accepts direct responsibility this time, in contrast to the former less official drafts.

We are now in the fortunate position of being able to publish two searching interpretations of these documents, one written from the standpoint of broadcasting in Germany but losing none of its scientific impartiality, and the other—offering a general perspective—based on the scholarly experience which its author has had of legislation in countries of the Berne Union. We hope that the reader will appreciate the simultaneous appearance in this number of two works in the nature of searchlights brought to bear upon the same object, illuminating many of its facets, mingling with—rather than fighting against—each other, and shedding remarkable light upon texts whose importance is no less great than their complexity.

COPYRIGHT REFORM IN THE FEDERAL REPUBLIC OF GERMANY

SOME COMMENTS ON THE LATEST PROPOSALS

by Dr. BÉNIGNE MENTHA

Put in hand some thirty years ago but laid aside during the second World War, the recasting of German legislation on copyright now stands high on the order of business of the Bonn Government.

The year 1954 saw the publication of two preliminary draft Bills, one on the subject of copyright proper and the other on the regimen applicable to collecting societies in the field of copyright. These drafts bore the title of *Referentenentwürfe*, which has cleaved to them ever since; the term has no exact English equivalent, and means that the proposals were presented as the work of departmental officials specialising in copyright affairs. Detailed explanatory memoranda accompanied the proposed

texts. The Minister of Justice of the Federal Republic, who was standing god-father to the spiritual offspring of his subordinates, invited those concerned and the public in general to have their say in the matter. He got more than he bargained for. To tell the truth, the comments flooded in mostly in the form of criticism, and little heed was paid to the modest desire he had expressed to hear a few approving remarks as well that might whet the ardour of his civil servants. It must be admitted that the main preliminary draft was rather hard on the authors, but one can only praise its structure and its well thought out arrangement which made it possible to cast in a single legislative mould the whole substance

of copyright, be it the rights in literary and musical works, the rights in works of figurative art or the rights in photographs. What is more, a separate chapter was devoted to the rights akin to copyright (*verwandte Schutzrechte*), to which incidentally photographs were relegated. The improvement in drafting over the two Acts at present in force was incontestable.

Despite this, it was necessary "to have another go", as the soldiers say when Victory has not been lavish in her favours. In May 1959 the Federal Ministry of Justice in Bonn published new and extensively revised drafts, this time sailing under its own flag as *Ministerialentwürfe*. These drafts are of a more official character than the 1954 documents, but we are not yet dealing with a Government Bill tabled in the Bundestag; we are still in the phase of administrative preparation preceding the Parliamentary discussion stage. One can only commend the conscientiousness to which this method bears witness. Public opinion had been requested to give its verdict on the 1954 drafts, and the 1959 versions are likewise held up to the judgment of the community.

In the following paragraphs I propose to throw out a few sporadic remarks, and will not attempt to go through the new drafts section by section, nor to deal with the broadcasting aspects, which have already been ably dealt with in the Review¹. It may be that the German broadcasting authorities will wish to revert to this subject later in order to air their views on the ministerial proposals; it is for them to do so, and I do not intend to encroach upon their undeniable prior right.

* * *

The 1959 preliminary draft on the subject of copyright of course takes over a number of unchallenged provisions on the works in which copyright subsists and the various prerogatives of the author from the 1954 text and from several foreign enactments promulgated in recent years. However, a fundamental conception regarding the nature of copyright becomes apparent in connection with the exploitation thereof. The Ministry adopts an idea which the Austrian Act of 1936 was patterned on: it declares copyright *in globo* and each and every one of the powers that make up copyright to be inalienable. The author merely assigns to the person exploiting the work (e.g. publisher, promoter or concert impresario) the right to use the work by all processes or by a specific process. Under this system the copyright as such is not transferred; the right continues to vest substantively in the person of the author, but is charged with a right of user in favour of the person exploiting it. This device has sometimes been held to be somewhat artificial. Precisely what is this substance indissolubly attaching to the author, from which one can detach either all the ways of turning a work to account that the legislature

has thought of, or merely one or other of them? Would it not be simpler to speak of total or partial assignment, as the case may be? This is the terminology in current use, and it avoids complicating the issue. I believe, however, that the Austrian example which the Federal Republic would like to follow has its advantages. Though it may seem to be hair-splitting, it does make the whole enforcement of copyright more logical and more uniform. Copyright is compounded of a pecuniary element, which of its nature is transferable, and a personal element which is by definition inalienable¹. It then becomes a bit awkward to deal with a right that is partly assignable and partly unassignable. The "*droit moral*" would have no point if the author could negotiate it by contract. A unified system for all the powers that go to make up copyright should therefore be built up on the pattern of the *droit moral*, the capital importance of which is generally recognised. At the cost of a slightly far-fetched theoretical conception, the Austrian Act and the German ministerial proposals afford a form of concrete protection that has noteworthy implications.

The Bonn text provides in particular that an assignee of the right of user is not entitled to transfer his right to a subsequent assignee without the author's consent, that the holder of the right of user is not at liberty to alter the work on his own authority, and that the author may in certain conditions withdraw the licence in the event of its not being used by the assignee or where the author can no longer be required to allow the work to be exploited as a result of a change in his convictions. Moreover—and this was not in the 1954 draft—the author is given the right to claim a share in the profits made by the assignee under the licence if such profits are manifestly out of proportion to the remuneration initially agreed on. (Mr. Reinhardt had suggested a provision to this effect in his brilliant doctorate thesis, reported in the *EBU Review*, No. 60 B). All this can of course be laid down by any copyright statute, but most appropriately by one founded on the principle of inalienability.

The 1959 draft further improves the position of the authors in other respects. They are given the right to authorise or to prohibit the exhibition of unpublished works of figurative art (the right of exhibition does not at present exist), and also the right to recite a published literary work in public (a right that is at present restricted to unpublished works). The *droit moral* (namely the right to paternity and the right to prevent mutilation of the work) is written into clauses in which one can see the result of the efforts of the Courts. Two other powers recommended by Mr. Reinhardt have found their way into the ministerial draft; one is the "*droit de suite*", the right to a percentage when a copyright work of figurative art is sold at auction at a profit, and the author's right to fair remuneration when a copy of a copyright

¹ *EBU Review*, No. 58 B, November 1959, p. 37.

¹ Subject to certain attenuations which will be discussed in a later article.

work is hired out at a fee (*gewerbsmäßig*). These two rights are in keeping with the demands of equity that the author should always have a share in the pecuniary profits from the exploitation of his work. Here too the theory of a copyright that is substantively inalienable makes it easier to justify the proposed rules.

While the 1959 draft, like other modern enactments on literary and artistic property, mentions the various powers reserved to the author, this listing is not legally limitative, although it is more or less complete in the light of present knowledge. The author is invested with a comprehensive right to use or exploit the work, and he is further protected in his intellectual and personal relation to the work. These are felicitous formulae which demonstrate the association and the interpenetration of the pecuniary and personal aspects of copyright. At the end of the term of copyright the "*domaine public payant*" begins, the money thus collected in a fund being used to honour and to aid retired or needy authors and their families and to encourage gifted authors. All in all, the new German draft Bill is thoroughly up to date; and I do not think it can be blamed for underestimating the civilising mission of the authors.

* * *

We must now turn to the restrictions on copyright, the most frequent butt of criticism. Between the case for absolute protection and the desire to allow the *exploitants* to perform their functions as intermediaries between the authors and the public with as little hindrance as may be a host of compromises are possible. We need not dwell on the lawful borrowings (subject to a fee) for school readers (the chrestomathies of the Berne Convention) or on reproductions in the Press, but it will be of interest to note that the author's performing and reciting rights abate in the case of events not conducted for profit or of religious ceremonies (though in the latter case the author is entitled to fees). The protection is reinforced; concerts at village fêtes will no longer evade the author's grasp, and devotional music, although freed of the exclusive right (and hence the need for consent), will no longer be played for nothing.

It is sometimes said that the privacy of the home raises an insuperable barrier to copyright, or in other words that the personal use of a copyright work is not subject to control. This rule for a long time seemed self-evident, but the impact of certain recent inventions such as the tape recorder, photostats and micro-film recording have shaken the belief in a principle that was fascinating in its simplicity. The controversy began in Germany. It was explained that under the existing laws the right of reproduction, framed chiefly with a view to public uses of the work, was not limited to such uses. A private reproduction remains a reproduction in the eyes of the law, and any reproduction is in principle reserved to the author. The exceptions, which are exactly defined and circumscribed, are to be construed strictly, and even res-

trictively, if the course of events is such as to make the scope of the special rule uncertain. At present it is permissible to reproduce a work for personal use on condition that the intention is not to derive proceeds from the work (Literary and Musical Copyright Act, section 15 (2)). In a 1955 judgment which quickly became famous, the Federal Court at Karlsruhe held that the owner of a tape recorder who reproduced a copyright work on tape could not rely on the exemption granted under the above-mentioned clause. The Court thus narrowed down the scope of section 15 (2) of the Act; they did not feel bound by the principle fairly widespread outside Germany that copyright does not extend to private uses of a work. It must be admitted that even *de lege lata* there is no firm authority for this view in Germany. This being so, the Courts in that country had full latitude to inquire whether copying of a work for personal, non-profit-making use continued to be lawful, i.e. unrestricted, even by means of processes or contrivances that were unheard of when the Act was passed (in 1901). The reply was in the negative; the judgment is supported by lengthy grounds, which suggest that the Supreme Court must have had some difficulty in making up its mind. The reasoning of the Karlsruhe Bench leads up to law-by-interpretation, but this would not have been possible for a moment if the private use of works in Germany had been in the nature of an act over which the author had no hold.

The recent decisions of the Federal Court naturally influenced the authors of the 1959 draft; they have not taken over section 15 (2) of the present Act bodily but have drafted a clause in line with the decision of the judiciary. Hence the proviso that reproduction for personal use does not include fixation of a work by means of a contrivance for the recording of sounds or images. It remains to be seen how the right will work out in practice.

Referring to the 1955 judgment, the authors of the *Ministerialentwurf* observe that up to now the opinion of the judges does not appear to have had any practical consequences. Similarly Professor Eugen Ulmer, in the second revised and expanded edition of his standard work on copyright (at p. 230), notes that no one has yet managed to enforce the right recognised by the Federal Court. He adds that there has been talk of placing a copyright levy on tape recorders which record copyright works, or of collecting a fixed monthly due from the owners of such machines. These suggestions are interesting, but I do not feel altogether happy about them. Despite the respect due to the eminent jurists in Karlsruhe and despite the general approval they are given by the Professor, an increasingly authoritative authority, I continue to be impressed by the explanatory memorandum in support of the 1954 draft, where I find the following passage: "The authors' claim to restrain private recording on magnetic tape is thwarted by the impossibility of enforcing such a prohibition". The

necessary control would imply that owners of tape recorders would be obliged to put up with calls from collecting-society inspectors and submit to what amounts almost to house searches, contrary to the fundamental law of the Federal Republic. Sound legal policy refrains from demanding what it cannot obtain by legitimate means. The monthly fee to which Professor Ulmer refers would be acceptable if the prospective payer were able to avoid payment by proving that he had not used the tape recorder to record copyright works during the period in question. I am not sure, however, that this system of a *juris tantum* presumption would bring in sufficient returns. It is possible to efface tape recordings; wouldn't people yield to the temptation of evading the licence fee? Perhaps, after all, it would be best to fall back on an inclusive, fixed levy; a reasonable fee would encourage people to pay, as they would thus spare themselves at little cost the inconvenience of an investigation or even a court case. And the consent of the "taxpayer" would silence any objections.

Alongside the problem of the tape recorder there is that of photocopying. The 1959 draft does not mention this reproduction process by name, whereas it devotes an interpretative clause of exception to "contrivances bearing sounds and images", i.e. to tape recorders. But one gets a fair idea of what the authors of the draft are aiming at when one weighs the words and expressions used. Reproduction of a work for own or individual use (other than personal use—the nuance is a subtle one) is lawful in the case of short excerpts from a work or articles from a newspaper or periodical (or in certain circumstances a work out of print). The very nature of the works which it is permitted to copy shows what forms of reproduction are primarily referred to, namely hand copying, copying on the typewriter and photocopying. If the copy is intended for *personal* use, there are no restrictions (except the proviso relating to tape recorders). If it is for *own or individual* use, in particular for the needs of a person's calling, there are again no restrictions but a fee is payable, though this fee is abolished in the internal operations of libraries and public learned institutions.

How can the fee be collected? There is a blanket agreement between the German booksellers' cartel (acting also on behalf of the authors) and the Federal Association of German Industries; the latter pays the former a lump sum, in return for which an annual maximum number of photocopies taken from affiliated magazines may be made without further authorisation for internal use in undertakings. This practice appears to satisfy those concerned, and it will doubtless be retained and even extended.

The provisions dealing with non-public uses of works reveal a desire for equity which I find highly commendable. But we are asked to accept a very subtle system. To attempt to distinguish between personal use and own or individual use (*der sonstige eigene Gebrauch*) is to expect much of the normal power of discrimination

possessed by the human intelligence. I gather that the second type of non-public use is closely related to photocopying and microphotography. But why not mention these processes by name and endeavour to delimit their scope? In their explanatory memorandum the authors of the 1954 draft put the tape recorder and photocopying on the same footing, but this symmetry is no longer present in the 1959 draft. Ideas have changed. According to the present draft the author is, if I am not mistaken, better protected against tape recordings than against photocopying; the two forms of exploitation, although akin, are not equivalent (though they were in the 1954 draft, which systematically authorised personal use). This leads me to say that a more specific choice of language would assist those who have to construe the law in a field where it is necessary in any event to place a strict interpretation on a restriction of copyright. Moreover, an express provision on photocopying would make it possible to set limits to the use of such copying in cases of reproduction for personal requirements. In this respect the 1959 draft is very liberal in its silence. So long as it is for personal use the work may be copied in its entirety (with the exception of fixation on magnetic tape). But the photocopying of an entire book would offend one's sense of proportion, especially if one takes the view that private reproduction is not *ipso facto* outside the purview of the author. Here Professor Ulmer asks for a safeguard, and he is right to do so.

* * *

Chapter (or Title) II of the 1959 draft deals with rights akin to copyright (*verwandte Schutzrechte*) and deserves an article to itself. I may perhaps be allowed to offer a few considerations on this topic.

Since a special class of rights was being created, the proprietors of which would not rank as authors proper, it was the obvious course to include photographs among the subjects covered by this protection which is to some extent derived from copyright. It is also desired to protect by the same means published editions of works for the benefit of those who determine the scientific layout (*the editio princeps*), and posthumous works for the benefit of those who publish them. The duration of the right is shorter than that enjoyed by an author properly so called, thus marking the inferiority of the kindred right, which is relegated to the basement though it is in the same house as copyright. These measures are simple and easily intelligible; they meet the demand for clarity made by Professor Hinderling in a book which has just been published for the 500th anniversary of the University of Basle.

The German *lex lata* already gives a measure of copyright protection to the performers. The 1959 draft puts them on the level of employees who are protected in the services they render, on a par with photographers and the publishers of first editions and posthumous works. The decision is a clever one, for it does not ruffle the

susceptibilities of the authors. The performer will receive two rights: the first, parallel with copyright, will give him the power to authorise or to prohibit propagation of his performance by loud speaker, broadcasting, fixation on magnetic tape and the making of copies of such a fixation. The second will enable him to secure a fee when contrivances embodying a recording of his performances are used in public. In the first case there is no clash with copyright; the performer is a party to a contract of engagement, but it is important to arm him *erga omnes* against the unauthorised use of his performances. In the second case it is only right that the public use of his records or tapes should bring him in some supplementary remuneration. It might, however, be dangerous for the author if an exclusive right or a right of prohibition were granted in this connection, on account of the possible conflict of interests: the performer tends rather to look askance on the use of "canned music", while the composer sees it as a lining for his pockets.

This body of provisions seems sensible enough and compatible with the deference due to the authors and composers of the works performed. The 1910 provision which put a (limited) performer's copyright on to the German statute book has done no harm to the authors. The 1959 draft contemplates a structural change without detracting from the legal position of the "sitting tenants". One cannot blink the facts: new inventions and techniques have increased almost immeasurably the opportunities for earning. A songwriter who reaches the "Hit Parade" makes a fortune out of one record, and the performer aspires to the same riches; the role of the jurist is to give to each his due. For this reason I also approve of the provision concerning the performer's moral right to restrain any mutilation of his performance that is liable to reflect adversely on his honour or reputation.

To sum up, the difference between copyright and rights akin to copyright is essentially one of language. The prerogatives are identical in nature: at the top we have the exclusive or absolute right, and lower down the right to mere remuneration. As to the *droit moral*, it comes into the picture as soon as the individual entrusts to the outer world the operations of his intellect and the finesse of his artistic perceptions in some concrete form. In this respect the author and the performer are equal, though this does not prevent the legal draftsman from meting out a different term of protection to each.

The subject of ancillary or "kindred" rights is a wide one and raises a number of problems: what about collective performers such as choirs and orchestras, for instance, and what about record manufacturers and broadcasting organisations? The 1959 draft contains answers to these questions which lack of space and time prevent me from discussing. The sections on films alone provide the matter for a lengthy article in themselves. In brief it can be said that the film maker is invested with an ancillary right: the intention is to give him special pro-

tection as the co-ordinator of the varied services and original works that go into the making of a cinematograph film. This right exists concurrently with the rights of the authors of the cinematographic work, who incidentally are not listed in the draft. The general rule that the author of a work is its creator will be applied, and hence the authors of the film will be all those who have made a creative contribution to it. The multiplicity of tasks in this field where art, industry and finance converge are an argument for caution and flexibility; detailed and rigid rules would soon become either pointless or embarrassing. Is it even necessary to give the producer (in the continental sense) a "kindred" right? Wouldn't facilities (i.e. a presumption of assignment) granted *ex lege* to the film maker to acquire the rights of the joint authors serve the purpose just as well?

* * *

The *Ministerialentwurf* of the Copyright Collecting Societies Bill need not detain us, and we will confine ourselves to two points.

1. There will be no statutory monopoly for the concessionary societies, though there will undoubtedly be a *de facto* monopoly (e.g. the GEMA, the performing right society). The Basic Law of the Federal Republic of Germany gives its citizens the right to follow the occupation of their own choosing, and it is feared that this provision would be infringed by deciding that each of the prerogatives inherent in copyright could be exercised only by one society.

2. The collecting societies will be required to grant licences to anyone who tenders a reasonable consideration. The obligation to contract follows from the monopoly which the societies will have as the result of circumstances if not of legislative action. I think this is as it should be, but some opposition from the authors is not to be discounted. A controversy on this question would not amount to much, anyway, because failing the contemplated clause, a user who was hard pressed by prohibitive demands could probably rely on Article 226 of the German Civil Code (the exercise of a right is not permissible when it can have no other purpose than to cause prejudice to others).

I will end my sporadic remarks here. It would be difficult to find an occasion when this adjective has been used less flatteringly or more appropriately. I am sorry I have not set off the wealth of material in the documents in question to better effect; they form a whole of an undeniable academic and practical merit. Destined by reason of their very purpose to an ephemeral existence, they have the stuff of writing for posterity. We can congratulate and thank their anonymous authors, foremost among whom I fancy I detect Mr. Kurt Haertel, *Ministerialrat*, and Mr. Gerhard Schneider, director, both from the Bonn Ministry of Justice.

THE PLACE OF BROADCASTING IN THE MINISTERIAL DRAFTS FOR REVISION OF THE GERMAN COPYRIGHT LAW

by Dr HANS BRACK, Cologne

I

When the broadcasting authorities first began to radiate programmes in 1923 there inevitably arose a need to bring this new mode of performance of literary or musical works within the purview of the copyright law. Since the legislator could not turn his attention to this problem for a variety of reasons, it was on the courts and the legal writers that the burden fell of embodying broadcast transmissions into the concepts of copyright in the then existing statutes. This process commenced in 1926, when the Reichsgericht decided that the broadcasting of a spoken work constituted a commercial distribution of that work (cf. RGZ 113 p. 413 ff., *Der Tor und der Tod*). The Court held to this view on subsequent occasions (cf. RGZ 123 p. 312 ff., *Wilhelm Busch*). In the case of musical works the Reichsgericht took the position that broadcasting constituted a public performance which at the same time partook of the nature of a commercial distribution (cf. RGZ 136 p. 377 ff., *Lautsprecher*; RGZ 153 p. 1 ff., *Schallplattensendung*).

In the preparatory studies looking to a reform of the German copyright law the rapidly increasing importance of broadcasting was duly taken into account (cf. the 1932 draft Bills of the Reichs Ministry of Justice, Dr. Willy Hoffmann's 1933 draft and the 1939 drafts prepared by the Academy of German Law).

The first mention of broadcasting in international copyright was in Article 11 *bis* of the Berne Convention as revised in Rome on 2nd June 1928. This provision gave the author the exclusive right to authorise the performance of his work by "radio-communication". In the Brussels Revision of 26th June 1948 the regulations having a bearing on broadcasting were extended, the additions consisting in particular of Article 10 *bis* (radio reporting of current events), Article 11 *bis*, § (1) 3° (communication of a broadcast work to the public by means of a loudspeaker) and Article 11 *bis*, § (3) 2° (ephemeral recordings). The Federal Republic of Germany has not yet acceded to the Berne Convention as revised in Brussels.

When work was resumed on a revision of the copyright law in the Federal Republic of Germany after the Second World War, the importance of broadcasting had grown even further, and television had come to join it. The latter, to be sure, already figures in the 1954 *Referentenentwurf*, but it is only in the last three years that it has really come into its own.

It should be noted that under section 2 (2) of the German Copyright Act the performer is entitled to a quasi-copyright as an arranger. There is controversy as to the meaning of this protection. The prevailing doctrine

at the present time is inclined to afford performers protection through the grant of ancillary rights ("droits voisins"), and the same would apply to the manufacturers of phonographic records and to the broadcasting organisations. In the field of ancillary rights some preliminary international work has taken place which is intended to lead up to the conclusion of an international Convention on ancillary rights similar to the Berne Convention (cf. the drafts prepared by the International Labour Office in July 1956 and by Unesco and the Berne Union in March 1957). In the process ancillary rights would also be given to the broadcasting organisations.

All these legal and circumstantial developments had to be taken into account when the Federal Ministry of Justice decided to go ahead with the so-called "big copyright reform" in the life of the third parliament, after the "little copyright reform", which was designed to allow the Federal Republic to accede to the Brussels Revision of the Berne Convention, fell through when the second parliament came to an end. On 26th May 1959 the Federal Ministry of Justice made public two new drafts of a Copyright Bill and a Bill on collecting societies.

II

How well does broadcasting come off in this *Ministerialentwurf* or Ministerial draft? Although the *Ministerialentwurf* (ME) is based extensively on the *Referentenentwurf* (RE) (cf. on this point Bussmann in UFITA Vol. 19, p. 1 ff.), it contains proposed changes relating to broadcasting which call for some discussion. In commenting on these points this article follows the order in which they appear in the ME for reasons of clarity and mentions for the sake of completeness even those provisions affecting broadcasting that do not need to be dwelt on at length.

1. In addition to the author's broadcasting rights, his rights of reproduction and his cinematographic rights are of particular importance to broadcasting. The relevant provisions of the ME are, respectively, section 12 (2) 1. and section 17; section 12 (1) 1. and section 13; and section 12 (1) 3. and section 15.

2. The first provision in the ME which calls for comment is section 27, which gives the author the right to assign away his rights of exploitation subject, among other things, to limitations as to the destination of the work. According to this, any piece of work could, by agreement between the proprietor of a right of reproduction and his co-contractant, be burdened with limitations on its use that would be enforceable as against third persons. This produces an extremely tangled skein of legal relationships. The fact that the legal uncertainty resulting

from the fragmentation of rights at will does not have the approval of the legislator is apparent from the thought underlying section 54 sentence 1 of the ME whereby further circulation is permissible if the original or reproductions of the work have been put into circulation by way of alienation with the consent of the owner of the circulation rights. This provision, however, would not protect the broadcaster, since it permits only further circulation and not the use of the work on sound radio or television. For this reason there is a loophole here in the Bill which should be plugged so that broadcasting cannot be excluded by virtue of section 27 when rights of reproduction are assigned.

3. Like the previous drafts the ME also contains detailed provisions concerning "fair dealing", i.e. the restrictions placed on pecuniary rights. In this connection it should be mentioned that schools are permitted to make reproductions of broadcasts to schools (section 44 ME). It is also permissible under section 50 (1) sentence 3 of the ME to record a broadcast work "off the air" on sound or visual recording media for one's personal use. In order to demonstrate machines for the production of phonograms to their clients, firms which deal in these machines are permitted to record works transmitted by radio on to phonograms (section 52 ME). The reproductions thus made are to be neutralised in the case of business firms forthwith, when made for personal use within one month and in the case of schools within one year from the date of recording. For the ancillary rights of broadcasting organisations the reader is referred to section 92 (3) ME.

Pursuant to section 47 ME it is permissible for the purposes of reporting current events by means of broadcasting and cinematography to transmit by radio or to record on sound or visual recording media, to the extent necessary for the said purposes, works that are seen or heard in the course of the events being reported. The use of such sound or visual recordings by authorised persons for the purposes of reporting is permitted by section 47 (2) ME. Section 47 (2) ME is, however, not a self-contained provision which would allow anyone to make use of these sound or visual recordings, though this point could do with further clarification by the legislature. Further comments on section 47 ME will be given below in connection with the restrictions on the ancillary rights of broadcasting organisations (section 92 (3) ME).

4. Of great importance to broadcasting is section 48 of the ME, which makes it possible for broadcasting organisations which are authorised to broadcast a work to record the said work by means of their own facilities on sound or visual recording media for the purpose of using these recordings for a single broadcast over each of their own transmitters. These "ephemeral" sound or visual recordings must be destroyed or neutralised one month at the latest from the date of the first transmission, unless they are of exceptional historical or documentary value.

In this way the draft recognises the fact that at the present time broadcasting organisations cannot carry on their normal operations without the aid of sound and visual recordings (e.g. magnetic tapes and Ampex tapes) which "are not intended for a separate exploita-

tion of the work". For instance, the sound broadcasting programmes of the German broadcasting corporations extend almost round the clock, and in the process parts of the same programme are repeated at different times on various frequencies belonging to the same broadcasting organisation. The performers in the shows are frequently unable to appear in person at the broadcasting times scheduled in the programme, and hence there is a steady recession in the number of live broadcasts. It follows that programming far in advance is possible only with the aid of technically perfected sound and visual recordings. Although there has been no decrease in broadcasting's need for ephemeral recordings, the language of section 48 of the ME is more restrictive than that of section 45 of the *Referentenentwurf* (RE).

In the first place, the time-limit laid down in the ME for the use and defacement of "ephemeral" sound and visual recordings is substantially shorter than the 12 months provided for in section 45 of the RE. To this must be added the fact that section 48 of the ME does not specify precisely when the period begins. The words "from the date of the first transmission" give no indication whether this period runs from the first broadcast made from the ephemeral sound or visual recording or from the transmission which is simultaneously recorded on the ephemeral sound or visual recording. An example will make the position clearer: a broadcasting organisation in the Federal Republic "ephemerally" records a foreign broadcast "off the air", with a view to radiating it at a later date. On account of long-term programme planning considerable difficulties would be encountered if the German broadcasting corporation were obliged to transmit the ephemeral recording within a month of the date on which it was made. For these reasons the British legislator, who provides a period of 28 days for the use of ephemeral sound and visual recordings, prescribes in section 6 (7) of the Copyright Act, 1956, that these ephemeral recordings must be destroyed "before the end of the period of twenty-eight days beginning with the day on which it [the ephemeral sound or visual recording] is first used for broadcasting". In the second place it should be pointed out that the new draft no longer allows ephemeral recordings to be made in cases where the broadcasting organisations have acquired their licence to broadcast the work not by contractual agreement but on the strength of section 62 of the ME. In both cases the actual broadcast itself is permissible. For the above-mentioned reasons, however, the broadcasting organisations are dependent on the making of ephemeral recordings not only when the transmission is covered by rights assigned by contract but also when it is covered by the statutory licence. There is accordingly no justification for the different treatment provided for in the *Ministerialentwurf*.

5. It may be mentioned in passing that section 58 of the ME permits the broadcasting of a work to the extent that it may be reproduced as being a public lecture (section 45 ME) or a newspaper article (section 46 ME), or within the framework of freedom of composition (section 51 ME) or that of a quotation (section 53 ME). The same rule applies to works that are located permanently in public thoroughfares, streets or squares (section 56 ME).

6. A more thorough examination is called for of the statutory right of exploitation conferred on sound radio and television by section 62 ME for the broadcast transmission of works. The proprietor of the exclusive rights is entitled to equitable remuneration for the use of this statutory licence.

Television is interested in the statutory licence to an even greater extent than sound radio, and the limitation of the licence to musical works (in contrast to section 59 of the RE) proves to be extremely inconvenient in this connection, especially for the international exchanges of programmes which are officially encouraged by almost all governments.

An example will illustrate this point. Suppose a German television organisation intends to broadcast a Eurovision programme relayed from the studios of a foreign television corporation. The foreign corporation may have neglected to obtain copyright licences in respect of works other than musical works (e.g. stage settings, etc.) for the German relay of the broadcast. It would be extraordinarily difficult for the German television organisation to ascertain the names of the individual right-holders in question before the broadcast. It would therefore help a great deal if the German relaying organisation were entitled to pay appropriate remuneration to the persons involved only after the broadcast had taken place. It cannot be argued in this connection that the statutory licence provided for the benefit of the record manufacturers (section 61) likewise relates only to musical works; in the nature of things the record manufacturers can only record sounds, whereas television is dependent above all on the use of works that have an appeal to the eye.

Moreover, it is not quite clear why section 62 of the draft should treat broadcasting any worse than the record industry when the interests of the two are much the same. Under section 61 of the ME manufacturers of phonographic records can claim the benefit of the statutory licence once the author has granted an ordinary licence to a third party. In contrast to this, section 62 of the ME grants the statutory licence to a broadcasting organisation only when the author has given an *exclusive* licence to broadcast his work to a third party. While the record manufacturer can thus invoke the statutory licence as soon as he discovers that another firm has put on sale a record of the work, it is not enough for the broadcasting organisation to inquire whether another broadcasting service has included the work in question in its programmes. It will instead have to investigate whether an exclusive licence was granted for the broadcast, and in the case of relays of foreign broadcasts, for instance, this is no easy matter. In view of the fact that the reproduction of a work is at least equal in technical quality in radio and on records, and in view of the great public importance of broadcasting, it hardly seems appropriate that the latter should be worse off than the record industry when it comes to obtaining licences of right, for broadcasting is at least as keen as the record industry to ensure that the rendering of a work is in keeping with the artistic conception of the author. Besides, it is also rather hard to see why the broadcasting organisations are granted a statutory licence only *during the currency* of a contractual licence, whereas this restric-

tion is absent from the record manufacturer's statutory licence. Here, too, the same treatment should apply.

In contrast to section 59 of the RE, dramatico-musical works are excluded from the statutory licence in the ME when broadcast in their entirety or in major excerpts (sections 62 (4) and 61 (7) 2. ME). Many arguments can be advanced in favour of this course, but—as will be explained below—it could not but be beneficial to the overriding interests of the community at large if the exclusion of *grands droits* from the statutory licence were tempered by including them in the Collecting Societies Bill. Reference may be made to the situation in France, where the broadcasting corporation secures the *grands droits* for broadcasting purposes by means of lump-sum contracts with a collecting society (the *Société des Auteurs et Compositeurs Dramatiques*).

7. While on the subject of the statutory licence mention may also be made of section 104 of the ME, which provides that in the event of a copyright infringement in which no blame attaches to the infringer, entitlement to pecuniary relief, injunction, the destruction of infringing copies, defacement or neutralisation, and an account of profits will lapse if the infringer would thereby be injured out of proportion to the infringement and if the owner of the copyright could on this account be reasonably expected to waive his claims. The aggrieved party can then demand only an equitable remuneration, on payment of which he is deemed to have authorised the use of the work to the customary extent. This provision is of importance to the broadcasting organisation, particularly in the case of television, because it may happen for instance in international licensing arrangements, on account of the complexity of the subject, that a licence required for the broadcast use of a work may not be secured through no fault of the organisation's. The decisive factor, however, in the implementation of the provision is that the courts should not pitch the duty of care too high.

III

The *Ministerialentwurf* is the first in Germany to provide for the introduction of the “*domaine public payant*” (sections 69-74). The intention is that these fees will be paid for the use of works that are no longer in copyright and will be used for the benefit of needy and deserving authors. Such assistance must be warmly commended; the snag is, however, that the scheme put forward for discussion contains some as yet unsolved legal problems.

The purpose of the *domaine public payant* is to advance the cultural interests of the community at large by the encouragement of contemporary creative work in the arts (cf. Explanatory Memorandum to the ME, p. 64). If in accordance with this view it is to be regarded as a cultural institution, it would normally fall within the legislative competence of the individual *Länder*. Hence it may be that the Federal legislature does not possess the power to introduce the *domaine public payant*.

Nevertheless, the proposed system operates in practice as if it were an extension of the term of protection, and it might therefore be argued that the *domaine public payant* should be regarded as a copyright institution.

In this case regard must be had to Article 18 of the revised Berne Convention. This provision, which relates to the sphere of application of the Berne Convention, states in paragraph 2 that a work falling under the Berne Convention which has fallen into the public domain in a country of the Union other than its country of origin may not be protected anew in the country in question. A French work which had fallen into the public domain in the Federal Republic of Germany before the commencement of the new Copyright Act could not therefore be covered by sections 69 ff. of the ME. Consequently, the only way in which the *domaine public payant* could be introduced by Federal statute without infringing the Berne Convention is by limiting it to German works in the public domain and to those works whose country of origin is not a member of the Berne Union.

Notwithstanding this, the *domaine public payant* could be introduced in the Federal Republic over and beyond the period of fifty years *post mortem auctoris* in respect of Unionist works which at the time when the new Copyright Act comes into force are still in copyright (Article 7 (2), last half-sentence, of the Berne Convention would not prevent this), but it would lead to inequality of treatment as between nationals and foreigners, since the royalties paid in respect of the use of works by foreigners would accrue to a fund which would primarily benefit German authors.

In addition, it should be pointed out that the introduction of the *domaine public payant* for foreign works would mean that German works abroad would enjoy less protection than foreign works in the Federal Republic of Germany. It is evident that the suggested solution might lead to unsatisfactory consequences, and it should also be borne in mind that the non-commercial use of works no longer in copyright should not be placed on the same footing as the commercial exploitation of such works.

IV

The "ancillary" or "neighbouring" rights dealt with in the second part of the ME are of particular importance in broadcasting. This is not the place to discuss all the arguments for or against the granting of ancillary rights as a means of protecting the performer, and it is no secret that the authors are pointing with increasing emphasis to the possibility of protection through contractual arrangements and labour law.

The broadcasting organisations in the Federal Republic must be careful to remain just as independent of the authors and the performers as they are of other interest groups. In this connection attention must be drawn to the power of the societies to which authors' copyrights and performers' ancillary rights may be assigned. Since broadcasting is dependent on the use of these rights, it is in the weaker position when bargaining with the authors' and performers' societies, because a refusal to grant licences would cripple broadcasting altogether, while licences granted conditionally might influence the programmes in all sorts of ways. It should also be borne in mind that according to the ME the enforcement of performers' rights of prohibition (sections 81, 82, 83 (!) and 88 (1)) is not covered by the Collecting Societies Bill.

In any case, the broadcasting authorities, as public corporations not conducted with a view to profit, have everything to gain from distributing the funds at their command for the payment of copyright and ancillary right fees fully and equitably among the authors and performers who between them put the sparkle into the broadcasting programmes. It should not be forgotten, however, that there is an upper limit on these funds, and that beyond a certain point any rise in the fees for performers can only be at the expense of the authors, and *vice versa*.

1. Among the ancillary rights which the ME grants to performers mention should be made of the right, in the case of primary uses of their services, to prohibit broadcasting (section 83) or the recording of their performances on sound or visual recording media (section 82) and, in the case of secondary uses of their performances (i.e. using such sound or visual recordings for broadcasting), a claim to equitable remuneration (section 83 (2) ME). Section 87 lays down special rules for the collective exercise of rights and enforcement of claims in respect of choral or orchestral performances and theatrical performances.

(a) In order to adhere to the sequence of the ME, but also on account of the fundamental importance of reproductions (i.e. sound and visual recordings) for broadcasting, it will be appropriate to discuss the performers' reproduction rights (section 82 ME) before their broadcasting rights (section 83 ME).

The rules governing the right of reproduction in section 82 sentence 1 of the ME do not correspond to the provisions in the *Referentenentwurf*. Under section 76 of the latter (not carried over into the ME) the performer's consent to the recording of his performance was not required if he was working for a broadcasting company or a manufacturer of phonographic records. The *Referentenentwurf* was here guided by the consideration that the performers should not be given rights of prohibition in cases where they were in a position to make their appearances conditional upon a prior agreement as to the use that was to be made of their performances (cf. p. 197 of the Explanatory Memorandum to the RE). This arrangement had regard to the demands of everyday operations and should therefore have been maintained. The performers who work for a broadcasting authority know full well that for operational reasons it is usually essential to make a sound or visual recording of their performances; and if they render their services without making reservations beforehand it may be taken for granted that they have agreed to such reproduction.

In order to dispose of the argument that "ephemeral" reproduction is nevertheless possible (cf. section 89, in conjunction with section 48 ME), it must be emphasised that the broadcasting undertakings could not make do with that alone, since they frequently need recordings that require to have a longer life than the ephemeral recordings.

Should it be desired to keep a reproduction right for the performer employed by a broadcasting undertaking, it would be more appropriate and likely to avoid unfortunate occurrences if only a right to equitable remuneration were granted. An example of the latter course

is afforded by the section 83 (2) to which reference was briefly made above.

Special problems are raised by section 82 sentence 2 of the ME, which gives the performer the right to reproduce the sound or visual medium on which his performance is recorded. This provision, which was not in the *Referentenentwurf*, would create considerable difficulties for the broadcasting undertakings mainly on account of the fact that a performer on the permanent staff, enjoying all the advantages that go with a regular job and security against dismissal, could assert the right to prohibit his employer from reproducing in a material form his recorded performance, although he had consented to the broadcasting and recording of his performance on mechanical contrivances. In view of the uncertainty about the rights deriving from section 2 (2) of the existing Copyright Act, the German broadcasting organisations have already concluded contracts with the majority of their permanently employed performers for the acquisition of the rights to *manufacture* mechanical contrivances (e.g. the tape recording clause in Schedule 5 to the NWDR collective agreement). These agreements do not, however, govern entitlement to reproduce these contrivances, and there might be some doubt whether the performers on the regular staff are bound by their contracts of employment to grant their consent to such reproduction. If the ME is not altered, this question might conceivably lead to a dispute. Such a disturbance of the industrial peace would be all the more regrettable as the process has hitherto gone off very smoothly and no one has thought it unreasonable that the broadcasting organisations should also copy the mechanical contrivances which they have legitimately made and should use these copies for the purpose of exchanges of programmes. Such an interchange of programmes between broadcasting organisations, which is essential in the interests of the community at large in order to facilitate exchanges of transmissions between the various German and international cultural centres, might be rendered practically impossible by the new provisions contained in section 82 sentence 2 of the ME, since these exchanges, particularly in sound radio, are effected largely through the dispatch of copies.

The same difficulties arise in the case of performers working for the broadcasting undertaking on a fee basis (the free-lance performers). As far as these performers are concerned, however, it is easier for the broadcasting organisation to secure its position, since it only concludes contracts with them on an *ad hoc* basis.

Should the performers' right dealt with in section 82 sentence 2 of the ME (i.e. reproduction of the reproduction) be retained despite the fact that it is not necessary for protection of the performers, it would be an essential ingredient of any solution that was even half-way acceptable to the broadcasting industry that the right should be restricted to a claim to equitable remuneration, which in the case of full-time employee performers would be covered by the contract of employment.

The provisions relating to the right of reproduction in the case of television recordings produced in accordance with cinematographic considerations are discussed under V below.

(b) Under section 83 (1) of the ME recitations or performances of a work may be broadcast only with the consent of the performer. Section 76 of the *Referentenentwurf*, according to which such consent was not required if the performer was working for a broadcasting company, has been dropped, a fact which is liable to produce considerable difficulties for "live" programme exchanges in sound radio and television in relation to staff performers. Although the latter are — unless otherwise specified — paid for the use of their services for broadcasting purposes, which includes the exchange of programmes, the system contemplated in the ME might lead to the prohibition of programme relays by other transmitters. Consequently, the maintenance of section 76 of the RE but restricted to the work of staff performers in programme exchanges would best meet the case. At the very least some rule corresponding to section 83 (2) sentence 2 in the wording suggested below should be introduced, because this would involve only, a right to remuneration and not a right of prohibition.

It should further be noted that section 83 (1) of the ME puts the performer in a more advantageous position than the holder of an exclusive licence to broadcast; the performer could prohibit the broadcasting of a performance which the proprietor of an exclusive licence would be obliged to permit, under section 62 of the ME, upon payment of equitable remuneration. In order to ensure that section 62 of the ME has real meaning, it would be advisable to restrict the performer in such cases to receiving appropriate compensation.

(c) A point of great importance is the fact that under section 83 (2) sentence 1 of the ME (corresponding to section 74 (2) RE) the performer cannot restrain the broadcasting of his recitation or performance by means of a lawfully made sound or visual recording. He is, however, to be entitled to fair remuneration, and in the event of his being in the employ of a broadcasting undertaking this remuneration is to be governed exclusively by the employment contract (section 83 (2) sentence 2 ME). The last-named provision is a change from that in the RE, inasmuch as the employment contract of a performer on the permanent staff will govern only the right to remuneration as against his employer which accrues to him in respect of the broadcasting of a mechanical contrivance, but not the rights to remuneration as against other broadcasting corporations that arise out of section 83 (2) sentence 1 of the ME. Under section 74 (2) RE, a right to remuneration existed only to the extent that it could not be said to be already covered by the salary.

The provisions of the RE were more adapted to the requirements, especially those of programme exchanges, than the new version, which may involve considerable complications. In this connection it should also be mentioned that the majority of performers on the permanent staff of German broadcasting organisations are paid (in the absence of any agreement to the contrary) for the all-in use of their services for broadcasting purposes. It would therefore be in keeping with the actual position if section 83 (2) sentence 2 of the ME were to make it clear that in the case of exchange programmes the staff performer's rights to remuneration would at all times be determined by reference to his

contract of employment with the originating broadcasting organisation.

This special arrangement could be dispensed with in the case of performers working on a free-lance basis for the broadcasting industry, since where they are concerned, in contrast to the performers already on the permanent establishment of an organisation, any questions arising out of the exchange of programmes can be settled by contract in each individual case.

The provisions relating to broadcasting rights in the case of television recordings produced in accordance with cinematographic considerations are discussed under V below.

(d) In section 85 of the ME it is laid down that performers can assign their rights and entitlements to third parties. They will, however, retain the right at all times to consent in person to the communication to the public by means of loudspeakers (section 81 ME), the mechanical reproduction (section 82 ME) and the broadcasting (section 83 (1) ME) of their performances. This very important provision is designed to prevent performers who have assigned their rights away from losing the possibility of disposing of their personal services as they wish, and thus being unconscionably handicapped in the exercise of their profession. At the international level it is proposed to include a provision to the same effect in Article 4 (4) (c) clause 2 of the International Labour Office's draft Convention for the protection of ancillary rights.

(e) By analogy with the provisions of section 22 of the ME, which protect the author against distortion of his work, and in conformity with section 80 (1) of the RE, section 88 of the ME grants the performer the right to restrain any mutilation or other impairment of his performance that is calculated to jeopardise his standing or reputation as a performer. A recent insertion is section 88 (2) of the ME, which provides that in the case of a collectively performed work individual performers have to exercise their rights with due regard for one another's interests.

Broadcasting organisations attach much importance to the quality of their transmissions, and there is accordingly no danger of performances being mutilated. The broadcasting organisations may well be apprehensive, however, that supposed infringements of the *droit moral* will be exploited to sustain financial claims. If despite this it is still desired to give statutory recognition to the performer's *droit moral*, some means should be found of guarding against the above-mentioned danger. This danger of abuses and serious improprieties is further aggravated by the fact that every individual member of an orchestra or a choir could assert a *droit moral*, even though his performance is merged into the collective performance and will not on that account attract an individual ancillary right (section 87). In the first place, all exploitation of the performances of an orchestra or a choir could be blocked by a single performer who chose to oppose such exploitation by asserting his *droit moral*. The duty of mutual consideration would not do much to help matters, as it might be months or even years before a lawsuit on the subject was decided by the courts. For this reason the only viable solution

—if any—would be one in which the exercise of the *droit moral* in a choral, orchestral or theatrical performance within the meaning of section 87 (2) of the ME would be vested solely in the conductor, the executive committee of the choir or orchestra, or the artistic director or producer, as the case may be. This would afford greater assurances that the *droit moral* would not be abused, and would instead be exercised solely in harmony with the professional interests of the performers concerned.

2. Section 92 of the ME gives the broadcasting organisations self-contained protection against the re-broadcasting and the unauthorised commercial use of their transmissions. The intention of the legal draftsman here is to prevent a third party from appropriating the results achieved by a broadcasting organisation by dint of vast technical skill and financial expense and using them to put on a broadcast of his own, to make a sound or visual recording of the broadcast or otherwise to reproduce it for commercial purposes. Protection is also given against the commercial showing in public of television broadcasts (but not of sound broadcasts). The ancillary rights of broadcasting organisations are limited to a period of 25 years from the date of the broadcast (section 92 (2) ME), the same term of protection as for the other ancillary rights. These provisions are basically in conformity with the international developments in the field of ancillary rights (Article 7 (1) of the International Labour Office's draft, and Article 5 (2) of the Unesco/Berne Bureau draft).

While on the subject of international action in this field, it may be mentioned that the Committee of Experts on the Exchange of Television Programmes set up by the Committee of Ministers of the Council of Europe, after drafting the European Agreement on the Exchange of Programmes by means of Television Films of 15 December 1958 (cf. GRUR AIT 1959, p. 294), is now preparing a further European Agreement which is designed to protect broadcasting organisations to a certain extent against "the communication of their broadcasts to the public by means of any instrument for the transmission of signs, sounds or images" by third parties (cf. Article 1 (1) (c)). This Agreement is to be concluded for a period of ten years, or until the coming into force of the proposed international Convention on ancillary rights.

It should be pointed out at this stage, however, that the right of reproduction dealt with in section 92 (1) 2. ME does not afford the broadcasting organisation the complete protection of which it stands in need. What the broadcasting organisation still lacks is the right of reproduction and publication in lawfully produced sound or visual recordings or still photographs of its broadcasts. Without such a right the broadcasting organisation would not be able under the law of copyright to restrain the commercial copying and publication of photographs taken off the television screen for private use. The same applies to sound recordings made for private purposes which are reproduced by manufacturers of phonographic records. In such a case the broadcasting organisation would not be able to rely on the prohibition on commercial exploitation in section 99 of the ME,

because the reproductions in question would not be unlawfully produced copies. It would therefore seem logical to round out section 92 (1) 2. ME and grant the broadcasting organisation a comprehensive right of reproduction and publication in sound or visual recordings or still photographs of its broadcasts.

If we now turn to the limitations on the ancillary rights of broadcasting undertakings laid down in section 92 (3) of the ME, it will be seen that certain problems arise out of the application by analogy of section 47 of the ME. Under this section it is permissible for the purposes of reporting on current events by means of broadcasting, cinematography or photography for works that are seen or heard in the course of such events to be broadcast, reproduced and performed in public from reproductions "to the extent necessary for the purpose". If this provision is applied by analogy to television broadcasts, there is a danger of the television newsreel and television news reports on sporting and other events being shown in the cinemas without the broadcasting organisation's permission. If that happened, the protection granted to the broadcasting undertakings in section 92 (1) of the ME would have what to these organisations would be quite inadmissible inroads made upon it. As experience has already shown, the complications that would ensue for broadcast reporting and for the international exchange of programmes, particularly on account of the reactions of organisers of sporting events, would materially handicap the broadcasting organisations in the exercise of their statutory mission of information.

As mentioned above, concern lest events should take the turn alluded to here has led the Council of Europe to take an initiative to safeguard television broadcasts. In the proposed international Agreement already approved by the Committee of Experts of the Committee of Ministers provision is made to permit the use of television broadcasts for reporting purposes, subject to the following limitation (Article 3 (2) (a)):

"(2). It shall be open to the aforesaid countries to provide exceptions to the protection of television broadcasts —

(a) for the purpose of reporting current events, in respect of the rebroadcasting, fixation or reproduction of the fixation, wire diffusion or public performance of short extracts from a broadcast which itself constitutes the whole or part of the event in question."

Such a restriction on the right of the broadcasting organisation could be inserted in section 92 of the ME, should it not be possible to make section 47 ME inapplicable to section 92 (3) ME.

3. Section 130 of the ME limits the sphere of application of the right vested in the broadcasting organisations under section 92 of the ME to broadcasts originating within the territory to which the Act extends. In contrast to this the *Referentenentwurf* granted this protection to every corporation having its head offices within the territory covered by the Act.

Since the origin of a broadcast is to be determined by reference to the studio from which the broadcast is transmitted (cf. Explanatory Memorandum to the ME, p. 90), section 130 of the ME does not grant the pro-

tection provided for in section 92 ME to programmes from abroad relayed by German television organisations, except in the event of international reciprocity (section 130 (2) ME), because in these cases the studio from which the broadcast was transmitted would be situated in a foreign country. This arrangement overlooks the fact that by virtue of being relayed by German broadcasting undertakings the foreign broadcast becomes so to speak "naturalised" in Germany, i.e. it must be regarded as a German broadcast since the German broadcasting laws are to apply to it. It would therefore be logical to extend the same protection to it as to a broadcast which in fact originates in the home country. Such protection would also obviate difficulties in the international exchange of programmes, in which foreign promoters will often allow relays in another country only if the programme in the relaying country cannot be used by outsiders for commercial purposes.

In order not to place German television viewers at a disadvantage it would therefore be necessary to amend section 130 (1) of the ME in such a way that protection accrues to *all* broadcasts transmitted by a broadcasting undertaking whose head offices are within the territory to which the Act applies.

V

The special provisions on cinematographic works in the third part of the ME are of great significance for the television organisations. Since these organisations are interested in film works and cinematographic productions both as "consumers" and as producers, they set great store by a solution of the problem of film rights that is fair both ways.

Considerable importance for television organisations attaches to the legal classification of telerecordings, for without these aids to broadcasting it would now be well-nigh impossible to run a television schedule of more than five hours' broadcasting daily without a hitch. A large part of the television programme cannot be televised live because either the performers or the studios are not available at transmitting times, or because some current event is taking place outside broadcasting hours. As in sound radio, national and international exchanges of programmes are often effected by dispatching or copying telerecordings; this is always the case, for instance, when the relaying organisation has to put the programme in question on the air at a different time from the originating organisation. The role played by telerecordings is comparable, *mutatis mutandis*, with that played by tape recordings in sound radio. And since television programmes have to be planned even farther in advance than sound radio programmes, the possibility of making "ephemeral" recordings does not really solve the problem for television either.

Telerecordings may be made in three ways. Some are taken in the same way as ordinary cinematograph films, though this process is losing ground. They may also be produced by an electronic method, in which a live broadcast or studio performance is fixed on film electronically in an *unchanged* form, and lastly magnetic tapes may be made of broadcasts, performances or other events. It will be difficult to say in each case

whether these telerecordings constitute "film works" within the meaning of the Copyright Act, or cinematographic productions, or perhaps neither one nor the other, but mere sound and visual recordings. It will depend on this classification how the telerecordings are to be dealt with in law. The fact that it is possible that the technical process used in making a television recording (i.e. ordinary film, electronic recording on film or magnetic recording) may lead to dissimilar legal conclusions of considerable importance is a disturbing state of affairs that may cause the television organisations much embarrassment without advancing the interests of other parties. Since these problems already arise at the time of the passing of the Act, they should not be left to the courts to solve but should be settled in the Act itself in the interests of early clarification of the law.

1. It follows from the foregoing considerations that there is a need to expand section 93 of the ME, paragraph (1) sub-paragraph 4. of which provides that the grant of a licence to produce a "film work intended for showing on television" shall be deemed in the absence of any indication to the contrary to carry with it the grant of the broadcasting rights. This provision covers telerecordings which qualify as "television film works", i.e. films taken in the ordinary way. It is, however, questionable whether the unchanged electronic telerecording of a live broadcast constitutes a "television film work" within the meaning of section 93 (1) 4. An argument in favour of this contention is the fact that the live broadcast has been arranged from the beginning with an eye to simultaneous telerecording. In addition to this, the producer or the person at the mixing desk can choose from a number of different versions of the same scene taken by various television cameras operating simultaneously, and in each case selects the version that will be broadcast and hence also recorded. This might be regarded in the same way as the cutting of a cinematograph film as a personal intellectual contribution during the making of the recording. It would be highly desirable to have statutory clarification of this point. It would be logical if section 93 of the ME were declared to be applicable by analogy to telerecordings of works irrespective of the technical process used, provided that the telerecordings were made in accordance with cinematographic considerations.

It should be mentioned in this connection that section 15 of the ME which deals with the author's film rights may be construed to mean that the use of an existing work unchanged amounts to the use of the work for the purpose of making a film work (the word used in the text is "film"). Without this interpretation it is hard to see what distinction there is between this right and the right of reproduction in section 13 (2) of the ME. If this construction is correct, a broadcasting company before making a telerecording would have to secure, in addition to the broadcasting rights, the right of reproduction if the telerecording does not constitute a film work and the film rights if it does. At the time when the contract is concluded with the authors, which may be months and months before the actual production, it may still be an open question which process will be chosen for the telerecording. In certain circumstances,

then, it will not be known whether a television film work will or will not be brought into being. The resultant legal uncertainty would be obviated if the provisions on television film works were applicable by analogy to telerecordings of every technical description produced in accordance with cinematographic considerations.

2. It has already been pointed out in the comments on section 82 of the ME that the newly introduced right of reproduction in sentence 2 is not needed to protect performers in broadcasting, but severely complicates matters for the broadcasting organisations. In the case of "television film works" the ME itself has made no provision for such a right of reproduction (section 96 sentence 1) and it has good reason not to. Here too the legislator ought to make it clear, to avoid any unsatisfactory results, that telerecordings of works, irrespective of the process employed, are to be placed on the same footing as television film works, provided that they are produced in accordance with cinematographic considerations. The same would apply to section 96 sentence 2 of the ME.

3. In section 98 of the ME, which grants to the film producer an ancillary right in the reel (it is proposed to give him the exclusive right to copy the film, to distribute it and to use it for public performances or broadcasting), analogous protection is also provided for cinematographic productions not protected as film works. Since it would be unjust if no corresponding ancillary right subsisted in a telerecording on magnetic tape (in so far as it did not qualify either as a film work or as a cinematographic production), it would help in avoiding doubts and litigation to make it clear that the provision applies to recordings of all technical descriptions by expressly saying as much in the actual text of the Act.

VI

For the broadcasting services as consumers of copyrighted works and cognate services, the regulation of the rights of collecting societies is a matter of vital importance. Although the *Ministerialentwurf* of the Collecting Societies Bill has commendably kept to the principle of a statutory regulation of the rights of collecting societies, particularly the government supervision provided for in the RE, it has nevertheless considerably changed some of the individual suggestions in the *Referentenentwurf*.

For example, the new draft differs from the *Referentenentwurf* in that it no longer contains an enumeration of the rights the collective enforcement of which is governed by the Collecting Societies Bill. In section 1 (1) of the ME it is stated in a general clause that collecting societies exercise the exclusive rights arising out of the Copyright Act or rights to remuneration on behalf of a number of authors or proprietors of ancillary rights for the purpose of collective enforcement.

1. A further striking and substantive change is the fact that the ME no longer maintains the statutory monopoly for collecting societies (section 4 (2) RE). Under this provision a mandate to exercise any one type of rights or claims to remuneration could be given to only one collecting society in each case.

In practice the licensing of several societies for the same rights, which the ME now makes possible, presents serious disadvantages. Apart from the resulting legal uncertainty, the new rule will entail increased expenditure on administration and other extra work which is bound to push licensing fees up appreciably, without the increased fees being passed on to the authors or the performers. There are plenty of foreign precedents for this. The Explanatory Memorandum to the ME (see p. 211) indeed postulates that in the majority of cases the natural and spontaneous trend is towards a virtual monopoly for the collecting societies such as GEMA already possesses. This is not certain, however, and there are in Austria, for instance, two societies for the enforcement of literary copyright, while in the Federal Republic two undertakings are already concerned with turning performers' rights to account. It would therefore be very desirable if some way could be found of keeping the system provided for in the RE without impairing the basic Act.

2. While under section 2 (2) of the RE all licensing transactions came under the Collecting Societies Act irrespective of whether they were carried out on one's own account or on behalf of others, section 1 of the ME stipulates that the Act will apply only to licensing transactions which are undertaken on behalf of several authors or proprietors of ancillary rights. This means that all those who exploit copyrights for their own account are not covered by the Act. So long as only the author himself or his heirs are involved, there can be no objection to this. It is another matter, however, when enforcement is in the hands of the publishers. A music publisher, for instance, who has a fairly extensive catalogue can concentrate in his hands a repertoire that is comparable in size with that of a collecting society. To the extent that he exploits the rights for his own account, which is usually the case, he may enjoy *de facto* the same monopolistic position as a collecting society. Broadcasting organisations, which in the interests of their listeners are bound to transmit a large proportion of music, both *petits droits* and *grands droits*, ought to be protected by the Act against such an ascendancy in the same way as they are in relation to the collecting societies. These considerations lose nothing of their force when it is pointed out that the *petits droits* or musical performing rights are controlled by GEMA. Even this mandate

could be revoked by the big publishers when the obligation to contract provided for in the Collecting Societies Act and the Arbitration Tribunal begin to take effect. And since it is an easy matter to police the use of rights by broadcasting organisations, it could quite well be controlled by the publisher without the aid of GEMA, as happens anyway in the case of *grands droits*. If this were to happen—and there are already unmistakable pointers in this direction—the broadcasting interests would be compelled, without the protection provided for in the Collecting Societies Bill (which they need for both *petits droits* and *grands droits*), to conclude contracts with private entrepreneurs who wield the same power as a collecting society. In this way the purpose of the Collecting Societies Bill would be defeated in one of the most important areas of copyright utilisation. It is hardly reassuring to know that the manner in which the rights are exercised—by a collecting society or by a publishing house—may make the difference between the existence or non-existence of protection of the users under the Act.

3. Section 1 of the ME provides that the Collecting Societies Bill will not extend to the rights of prohibition vested in the performers in the Ministerial draft for the Copyright Act.

It is true that pursuant to section 87 (1) of the ME for the Copyright Act only the conductor or the executive committee is able to enforce the rights of prohibition of an orchestra or choir. There are, however, many formations of musicians which have neither a conductor nor an executive committee, and in which the individual members would therefore be entitled to assert the rights of prohibition granted in sections 81 ff. of the Copyright Act. Presumably these individual rights will be assigned away for enforcement to associations which would not fall within the purview of the Collecting Societies Bill on the basis of the present wording of section 1 of the ME. There is no reason why such associations should not be subjected to the provisions of the Collecting Societies Bill, since they too could achieve a virtual economic monopoly through the concentration of rights. In order to give the desirable effect to the Collecting Societies Bill, it is suggested that in section 1 persons or associations who administer the rights of prohibition provided for in sections 81 ff. of the ME for the Copyright Act should also be made amenable to the dispositions of the Collecting Societies Bill.

NEWS AND INFORMATION

COUNCIL OF EUROPE

Approval of the Draft European Agreement on the Protection of Television Broadcasts. — The drafting of the European Agreement providing for protection of television broadcasts, begun by the Committee of Legal Experts of the Council of Europe in December 1959¹, has been brought successfully to a close at a further session of this Committee in Paris on 29th and 30th April 1960. The original text had given rise to a number of amendments, in particular from the Governments of the Federal Republic of Germany, the United Kingdom, Ireland, Italy and Turkey. A final draft Agreement, taking into account these amendments, was established and unanimously approved by all the governmental experts who were present. We hope to be able to print the text in our next number, and here will only make a few preliminary comments to illustrate the principles on which this Agreement is based.

A broadcasting organisation may be covered by the Agreement in two ways: either by being constituted on the territory and under the laws of a contracting Party, or by transmitting from such a territory. However, by applying a reservation a contracting Party may link together these two separate conditions and, in order to grant protection, may require the coexistence of both.

The minimum rights accorded are *grosso modo* those laid down in favour of broadcasting organisations, as far as television is concerned, in the Geneva and Monaco drafts on "ancillary rights", i.e. the right to authorise or prohibit rebroadcasting, diffusion to the public by wire, communication to the public by means of any instrument for the transmission of signs, sounds or images, and fixation, subject to any greater protection provided for in the territory of the contracting Party where the protection is claimed. However, the principle

of national treatment is attenuated by the optional comparison of terms of protection. The minimum period of protection provided *jure conventionis* is 10 years.

The contracting Parties may make certain reservations and may also render more flexible the exercise of the rights granted. It is open to them to withhold protection in respect of wire diffusion, communication to the public when it is not intended for a paying audience, the taking of still photographs off the screen, and fixation for private use or for educational purposes. Each contracting Party may further exclude "domestic situations" from the application of the Agreement in its territory where such situations enjoy protection under its internal law. These reservations must be declared at the time of signature or of deposit of the instrument of ratification or accession. The other derogations from the exercise of the organisation's exclusive right do not have to be declared through diplomatic channels: the use of short extracts from broadcasts, ephemeral fixations, and the appointment of a body with jurisdiction over cases where the right of communication to the public is exercised unreasonably.

Special provisions are laid down to prevent the importation into the territory of a contracting Party of fixations of a broadcast protected by the Agreement in cases where these fixations would be unlawful in that territory. A particular case of material reciprocity concerns photographs taken off the screen: here, no contracting Party is required to grant protection to broadcasts originating from another Party which on its side had excluded broadcasts from such protection.

One of the final clauses stipulates that the Agreement would cease to be operative, except in respect of fixations already in existence, upon the coming into force of a Convention on "ancillary rights" affording protection to television broadcasts, between at least the majority of the Members of the Council of Europe that are Parties to the Agreement.

¹ See *EBU Review* No. 59 B, page 32.

In Part A — Technical of E.B.U. Review No. 61 you will find

an article by A. Pouyferrie and G. Frachet describing the signals used at present in France and proposed for the future, for the vertical-interval testing of television links;

a report by E. Magnusson and F. Strandén on the design of the new Swedish long-wave broadcasting station at Motala, due to be opened in 1961;

a study by S. Lacharnay of the problem of assigning frequencies to VHF/FM broadcasting stations having two or more transmitters, with a view to minimising mutual interference;

numerous news items concerning the technical activities of sound and television broadcasting services, notably: the use in Germany of surface-wave transmission-lines for feeding VHF and UHF transmitting aerials; an amplifier-compressor using transistors, utilised in Germany for "automatically" recording the sound in the production of filmed items; an analysis of the recent status report of the National Stereophonic Radio Committee of the U.S.A.; the new BBC studio at Cardiff; the technical arrangements made by the BBC and ITA for televising the marriage of Princess Margaret; and the modernisation of the Swedish sound and television broadcasting station at Hörby;

recent changes in the situation in the European long-, medium- and metric-wave broadcasting bands, summarised to 1st May, 1960;

a chart showing the situation in the European long- and medium-wave broadcasting bands as on 1st May, 1960,

brief accounts of recent meetings of Working Party K (sound and television broadcasting on UHF and VHF), of the "Rengelink" sub-committee (Eurovision news transmissions) and of the Bureau of the Technical Committee of the EBU.

E.B.U. ACTIVITIES

TWENTY-THIRD MEETING OF THE BUREAU OF THE LEGAL COMMITTEE

Nineteen member organisations were represented at the 23rd meeting of the Bureau of the Legal Committee held in Monte Carlo from 29th March to 2nd April 1960, under the chairmanship of Mr. Lenoble (RTF), assisted by Dr. Brack (ARD) and Professor Greco (RAI).

There was an unusually heavy agenda in view of the fact that the Administrative Council had referred a number of urgent questions to the Bureau and others had been added to their number to conform with the growing demands of the time-table of international meetings.

The question of ancillary rights was of course chief among the Bureau's preoccupations as the date approached for the meeting of the Committee of Experts convened by the ILO, UNESCO and the Berne Union in The Hague from 9th to 21st May. The Bureau had to re-examine the whole question of the Union's policy, in the light of developments since the preparation of the Geneva and Monaco drafts, bearing in mind certain preliminary meetings which the EBU had attended, and considering the probable attitude of the States and experts present in The Hague. The Bureau also decided upon the names of those who would take part in the EBU delegation and the results of its deliberations were submitted to the President of the Union for him to take a decision.

In a related field, the Bureau was required to determine a common policy with regard to the draft European Agreement on the protection of television broadcasts. The governmental amendments brought to the Bureau's notice were examined and a definite stand was adopted in view of the meeting of the Committee of Experts of the Council of Europe planned for 29th April 1960.

With only a few months left before the Summer Olympic Games, the Bureau had to define some aspects of the contractual relations to be established between the EBU and the Organising Committee of the Games, as well as the consequences that would arise therefrom vis-à-vis third parties, particularly as regards the public showing of transmissions of these Games. The problem of free access to news was given serious consideration on this occasion in order to discover whether due account would be taken of this principle at the time of the Rome relays, and the Bureau took the opportunity to study

the various situations that might arise at the national level as a result of the large-screen projection of television broadcasts from Italy. The position adopted gave rise to a number of recommendations, addressed to the Administrative Council or the President of the Union.

Another topical problem to which the Bureau gave its attention was the possibility of using the Eurovision network for commercial broadcasts or messages. Those attending the meeting submitted detailed information about the position in their respective countries with regard to this question, thus contributing to the solution of the problem whether the network could safely be used for commercial purposes.

Eurovision exchanges also gave rise to the study of the transmission over the network of news items supplied by private agencies. The results obtained so far from dealings with United Press were examined and arrangements were made to contact other agencies which supplied filmed sequences to Eurovision.

Once again, the Bureau studied certain problems set by the exchanges of sound and television programmes between organisations, members or non-members of the EBU. It was noted that the recent amendments to the EBU/BIEM standard contract were leading to contradictory interpretations and required clarification. As for exchanges with the countries of Eastern Europe, the report of the Group of EBU/OIRT Legal Experts was analysed and a number of recommendations drafted for the purpose of informing the Administrative Council of the opinion of the Bureau of the Legal Committee.

The Swedish delegation submitted two particularly brilliant reports on the subject of free access to news, in the general sense, and the forthcoming revision of the Berne Convention. As regards the first of these, a study group was set up with instructions to present its report to the plenary Legal Committee next September. In the case of the second, the directives already given to a working party were reaffirmed and it was understood that the report of the Swedish delegation would serve as a working basis.

Presented with demands from the International Federations of Performers to negotiate new international agreements regulating exchanges of sound programmes and other uses of artists' performances, the Bureau made a serious study of the problems involved and decided to submit draft resolutions to the Administrative Council determining the EBU's position in the matter. The same

procedure was applied to the question of the current international Agreement providing for supplements to performers taking part in Eurovision broadcasts.

The Norwegian delegation submitted a remarkable paper to the Bureau on the aspects of public international law connected with the operation of broadcasting stations on board ships in international waters or aircraft in international air space. The Bureau as a whole considered that these were characteristic cases of infringement of international telecommunication law and the law of nations in the matter of maritime and aerial navigation. The Bureau submitted a preliminary resolution to the Administrative Council but decided to keep the question on its agenda and asked the Norwegian delegation to present a detailed report, prepared by an expert on public international law, to the next session of the plenary Legal Committee.

The list of subjects discussed by the Bureau will have to be cut short here, although many other questions were dealt with and gave rise to recommendations to the Administrative Council. This very important meeting ended with the grateful acceptance of the offer from the Norwegian broadcasting service to organise the Legal Committee's autumn session in Oslo. The date was fixed for 20th September 1960.

GRAND PRIX OF THE 1960 EUROVISION SONG CONTEST

The European final of this contest, organised by the British Broadcasting Corporation, was held on 29th March at the Royal Festival Hall, London.

The winning song, presented by the Radiodiffusion Télévision Française, was entitled:

“ TOM PILLIBI ”

Music by André POPP
Words by Pierre COUR

sung by Jacqueline BOYER

to the accompaniment of the Franck Pourcel Orchestra.

This song obtained 32 points.

Thirteen television services took part in this year's contest, which can now be considered as a permanent Eurovision institution. The final was relayed over the Eurovision network by the member organisations of the EBU, serving in all about 15 million viewers, and by a large number of sound broadcasting stations.

As in previous years, the European jury responsible for choosing the winning song was decentralised. It was composed of thirteen national juries consisting of ten members each, who viewed the transmission on small screens in their own countries, through their own television services. The juries' announcements were amplified, to enable them to be heard by all viewers and listeners.

The final classification was as follows:

Jacqueline Boyer (France) with the song “ Tom Pillibi ”	32	points
Bryan Johnson (United Kingdom): “ Looking High, High, High ”	25	”
François Deguelt (Monaco): “ Ce soir là... ”	15	”
Wynn Hoop (Germany): “ Bonne Nuit, ma chérie ”	11	”
Nora Brockstedt (Norway): “ Voi, Voi ”	11	”
Fud Leclerc (Belgium): “ Mon amour pour toi ”	9	”
Harry Winter (Austria): “ Du hast mich so fasziniert ”	6	”
Renato Rascel (Italy): “ Romantica ”	5	”
Anita Traversi (Switzerland): “ Cielo e Terra ”	5	”
Katy Boedtger (Denmark): “ Det var en yndig tid ”	4	”
Siw Malmkvist (Sweden): “ Alla andra far varann ”	4	”
Rudi Carrell (Netherlands): “ Wat een geluk ”	2	”
Camillo Felgen (Luxembourg): “ So laang we's du do bast ”	1	”



A special setting had been arranged by the BBC; the EBU Administrative Office had prepared the coordination of the programmes and the EBU Technical Centre was responsible for the technical coordination.

A special tribute must be paid to the BBC for the perfect organisation on the programme as well as on the technical side and for the friendly atmosphere that prevailed throughout the contest. After the performance, a reception was given by Mr. Cecil McGivern, Deputy Director of Television Broadcasting, at the Royal Festival Hall.

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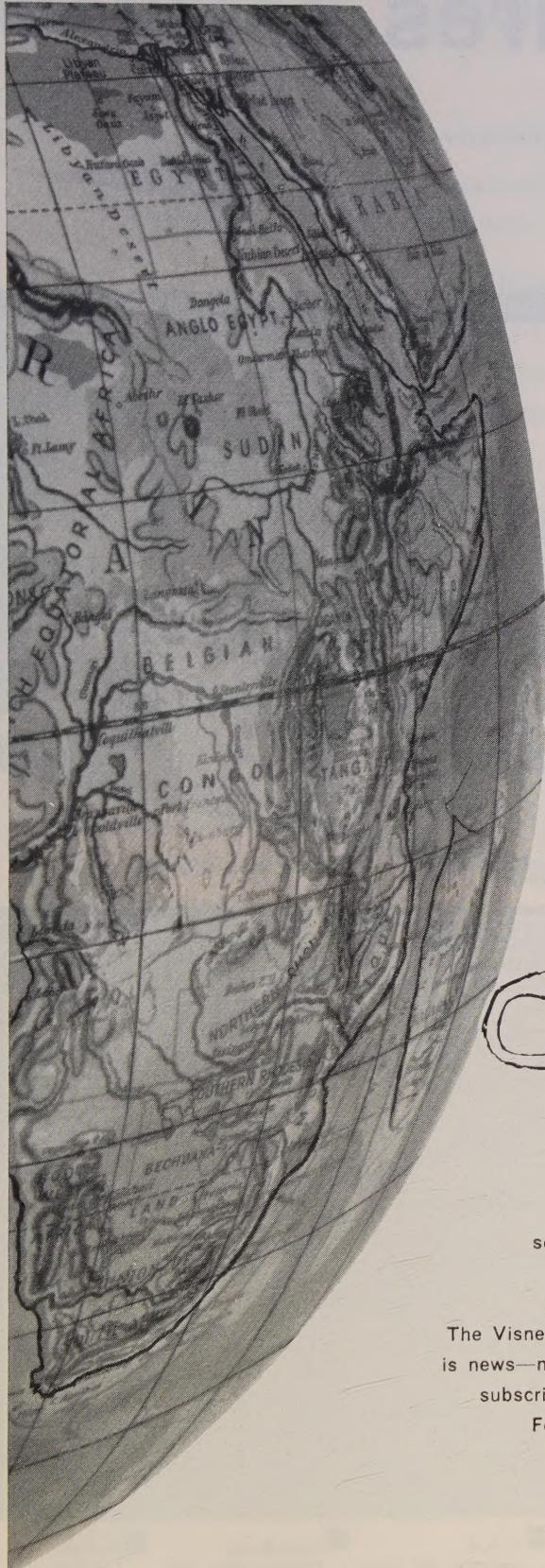
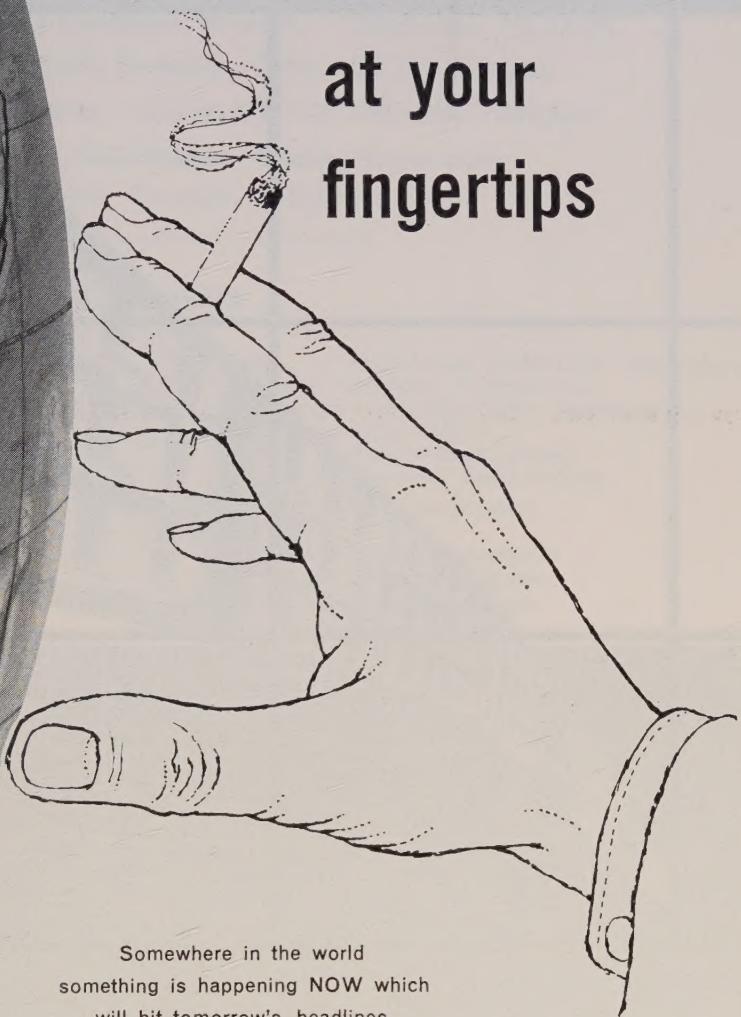
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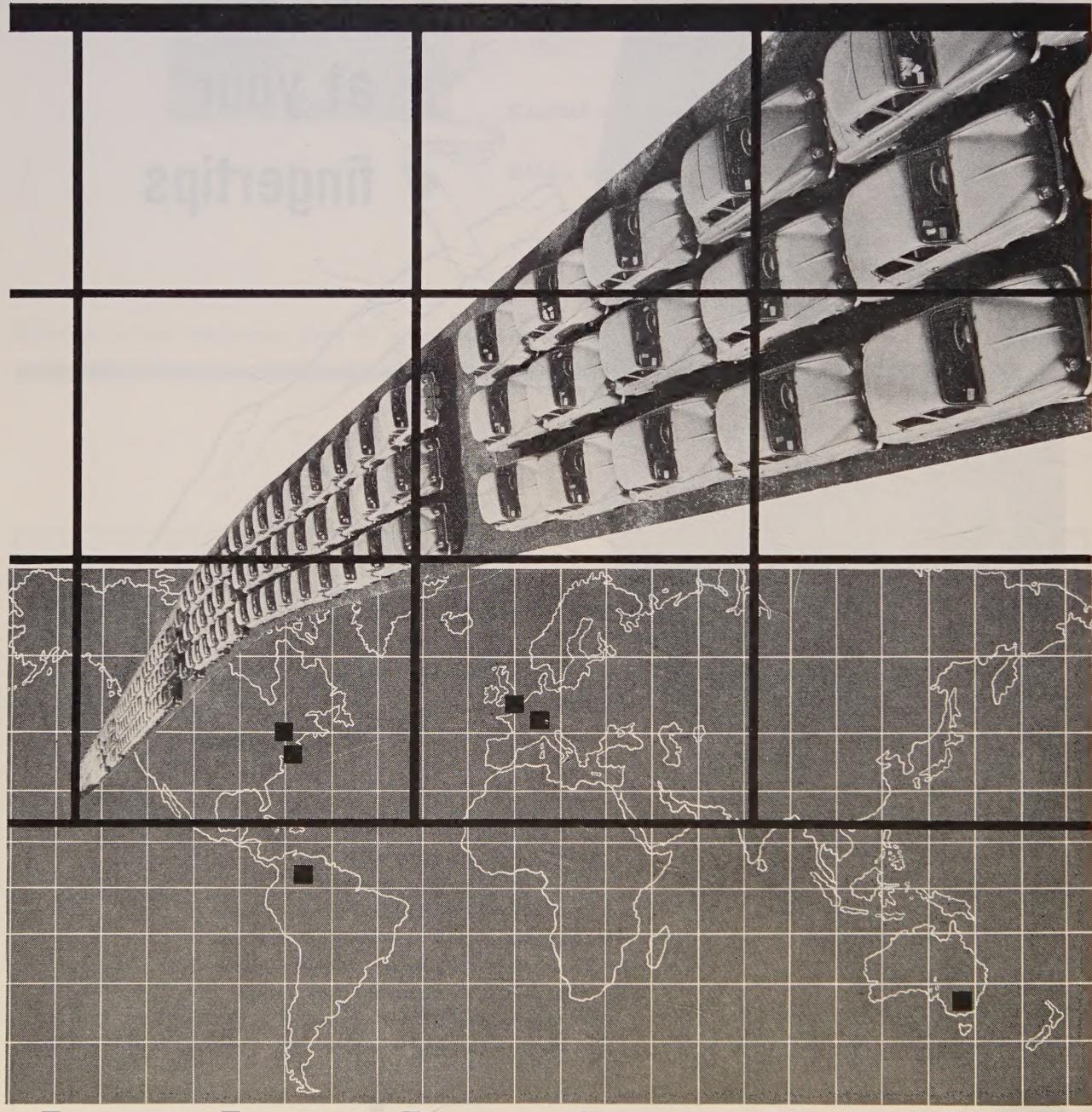
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Lebanon — Service de Radiodiffusion de la République Libanaise
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Price: 3 Swiss francs